



Browdy and Neimark, P.L.L.C.  
624 Ninth Street, Nw  
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Washington DC 20001-5303

In re Application of :  
GHASSABIAN et al. :  
Application No.: 10/553,575 :  
Filed: September 26, 2006 : **DECISION ON PETITION**  
Attorney Docket No.: GHASSABIAN12 :  
For: SYSTEMS TO ENHANCE DATA ENTRY :  
IN MOBILE AND FIXED :  
ENVIRONMENT :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 14, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the Application Data Sheet (ADS) filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

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

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

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

As to item (1), the petition does not comply with the requirements for a grantable petition under 37 CFR §§1.78(a)(3), in that, a proper reference to the prior-filed applications has not been included in an amendment to the first sentence of the specification following the title or in an executed supplemental Application Data Sheet, as provided by 37 CFR §§ 1.78(a)(2)(iii).

Applicant is advised that a supplemental application data sheet (ADS) must bear a proper signature as required by 37 CFR 1.33(b). The ADS submitted with the present petition does not bear a proper signature as required by 37 CFR 1.33(b). Form PTO/SB/14 contains an appropriate signature block and can be obtained at <http://www.uspto.gov/ebc/portal/efs/sb0014.fill.pdf>. Applicant is further advised that a supplemental ADS must be titled in accordance with 37 CFR 1.76(c)(2). Therefore, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters must be filed in the present application.

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail 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



Bryan Lin  
Legal Examiner  
PCT Legal Administration



3-1 MAR 2010

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In re Application of :  
GHASSABIAN et al. :  
Application No.: 10/553,575 :  
Filed: September 26, 2006 : **DECISION ON PETITION**  
Attorney Docket No.: GHASSABIAN12 :  
For: SYSTEMS TO ENHANCE DATA ENTRY :  
IN MOBILE AND FIXED :  
ENVIRONMENT :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed December 29, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the Application Data Sheet (ADS) filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an application data sheet, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

**The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon.**

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional and international applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Anthony Smith, Attorney Advisor, at (571) 272-3298. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2629 for consideration by the examiner of applicant's entitlement to claim benefit of priority to the prior-filed applications.

  
Bryan Lin  
Legal Examiner  
PCT Legal Administration



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Oppedahl Patent Law Firm LLC  
P O Box 5940  
Dillon, CO 80435-5940

Mail Date: 04/20/2010

<b>Applicant</b>	: H Randall Craig	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7637418	: RECALCULATION of PATENT
<b>Issue Date</b>	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/553,593	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 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 **489** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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GREENBLUM & BERNSTEIN, P.L.C.  
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Reston, VA 20191

In re Application of	:	
OZAKI et al	:	DECISION ON
Application No.: 10/553,601	:	
PCT No.: PCT/JP2004/005818	:	
Int. Filing Date: 22 April 2004	:	PETITION UNDER
Priority Date: 22 April 2003	:	
Attorney Docket No.: 10/553,601	:	
For: CELL STIMULATING DEVICE AND CELLS	:	
STIMULATING METHOD	:	37 CFR 1.181

This decision is in response to applicant’s “COVER LETTER REGARDING SUBMISSION OF SUPPLEMENTAL APPLICATION DATA SHEET” filed on 15 August 2008 with the correct name of the second inventor as Kouichi, ITOH. This is being treated as a petition under 37 CFR 1.181.

**BACKGROUND**

On 22 April 2004, applicants filed international application No. PCT/DE03/01519, which claims a priority date of 22 April 2003.

On 18 October 2005, applicant filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee. No executed declaration was filed on such date.

On 22 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, *inter alia*, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date. The 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.

On 23 July 2007, applicants filed an executed declaration.

On 22 February 2008, the United States Designated/Elected Office (DO/EO/US) mailed a “NOTIFICATION OF DEFECTIVE RESPONSE” (Form PCT/DO/EO/916), which, *inter alia*, stated that the spelling of the second inventor’s first name on the declaration doesn’t correspond with the spelling on the published application.

On 15 August 2008, applicants responded with the current petition.

### DISCUSSION

It is unclear from the submission whether the corrected name is due to a name change or a typographical error since applicant has provided no explanation. Therefore, the declaration of the inventor is not acceptable at this time, in that the name of the named inventor, Kouichi ITOH, does not correspond to that set forth in the international application, Koichi, ITO.

MPEP § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Applicant must provide items (1) and (2) for consideration. Alternatively, applicants may provide a showing that the name change was effected in accordance with PCT Rule 92Bis prior to the filing of the present national stage application.

Also, in the case where there is no change name of the individual but an incorrect name was given, a petition under 37 CFR 1.182 should be filed requesting correction of applicant's name.

If, however, the name change is due to a typographical error then applicant needs to state and explain it by filing a petition under 37 CFR 1.181. If filed under 37 CFR 1.181 the reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

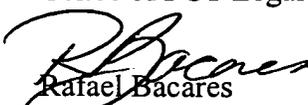
For the reasons above, the application may not enter into national stage processing at this time.

### CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED**, without prejudice.

A proper response to the Notice must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file 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

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14 JAN 2009

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In re Application of	:	
OZAKI et al	:	DECISION ON
Application No.: 10/553,601	:	
PCT No.: PCT/JP2004/005818	:	
Int. Filing Date: 22 April 2004	:	PETITION UNDER
Priority Date: 22 April 2003	:	
Attorney Docket No.: 10/553,601	:	
For: CELL STIMULATING DEVICE AND CELLS	:	
STIMULATING METHOD	:	37 CFR 1.181

This decision is in response to applicant's "RENEWED PETITION UNDER 37 CFR 1.181" filed on 18 November 2008.

**BACKGROUND**

In a decision from this Office on 19 September 2008, the decision indicated that the application could not enter into national stage at that time since it was unclear the name of the second named inventor .

On 18 November 2008, this renewed petition was filed and states that the correct name of the second inventor is Kouichi ITOH.

**DISCUSSION**

The correct name of the second named inventor is "Kouichi ITOH" as explained in the petition and this name will be reflected in the US national stage processing. Applicants indicate that the mistake was merely a transliterated error. As such, the correct name **Kouichi ITOH** will be reflected in the U.S. national stage processing.

Applicants' response is accepted as a sufficient response to the Notification of Missing Requirements (FORM PCT/DO/EO/905) mailed on 22 February 2008.

For the reasons above, the application may enter into national stage processing at this time.

**CONCLUSION**

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **23 July 2007.**



Rafael Bacares

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**MAILED**

**SEP 22 2009**

**OFFICE OF PETITIONS**

In re Application of :  
Becker, et al. : LETTER REGARDING  
Application No.: 10/553,607 : PATENT TERM ADJUSTMENT  
Filed: November 3, 2006 :  
Attorney Docket No.09432.0062-00 :

This is in response to the "NOTICE OF POSSIBLE PTO ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT AND REQUEST FOR REVIEW OF CALCULATION" filed July 24, 2009. Pursuant to applicants' duty of good faith and candor to the Office, applicants requests that the determination of patent term adjustment under 35 U.S.C 154(b) be reviewed for accuracy.

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

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero (0) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On June 11, 2009, a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed indicating that the patent term adjustment to date is 36 days. On July 24, 2009, applicants submitted the instant comment. Applicants disclose that based on their calculations the patent term adjustment should be 13 days. Specifically, applicants state that:

Applicants believe that there should have been a 40 day deduction of patent term adjustment from the date the Applicants filed a Supplemental Information Disclosure Statement on July 9, 2008 rather than a 17 day delay for filing the previously filed Supplemental Information Disclosure Statement on June 16, 2008.

*Excerpt from Notice of Possible PTO Error in the Determination of Patent Term Adjustment and Request for Review of Calculation, filed July 24, 2009, pgs. 1-2.*

A review of the record reveals that an additional period of reduction is warranted under 37 CFR 1.704(c)(8) for the filing of an Information Disclosure Statement on July 9, 2008.

37 CFR 1.704(c)(8) provides that:

(c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date the supplemental reply or other such paper was filed.

37 CFR 1.704(d) provides that:

(d) A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

It is undisputed that applicants filed Information Disclosure Statements on June 16, 2008, and July 9, 2008, after a response was filed to the non-final Office action on May 30, 2008. A review of the Information Disclosure Statements, filed June 16, 2008, and July 9, 2008, reveals that the Information Disclosure Statements were not accompanied by statements under 37 CFR 1.704(d). Furthermore, the record does not support a conclusion that the examiner expressly requested the filing of either

Information Disclosure Statement. Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application.

Pursuant to 37 CFR 1.704(c)(8), a first period of reduction of 17 days was entered, counting the number of days beginning on the day after the date the initial reply was filed, May 31, 2008, and ending on the date that the IDS was filed, June 16, 2008. Pursuant to 37 CFR 1.704(c)(8), a second period of reduction 40 days should have been entered, counting the number of days beginning on the day after the date the initial reply was filed, May 31, 2008, and ending on the date that the second IDS was filed, July 9, 2008.

37 CFR 1.704(c) provides that "[c]ircumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application ... will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping." In this instance, the first period of reduction of 17 days (from May 31, 2008 to June 16, 2008) totally overlaps with the second period of reduction of 40 days (from May 31, 2008 to July 9, 2008). Accordingly, an additional period of reduction of 23 days (i.e. the non-overlapping period from June 17, 2008 to July 9, 2008) is warranted and will be entered.

Additionally, a review of the application history reveals that a period of reduction is warranted under 37 CFR 1.704(b)<sup>1</sup> for the

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<sup>1</sup> 37 CFR 1.704(b) states:

With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

filing of a reply in the form of a Declaration and Power of Attorney on November 3, 2006, in excess of the three month period from the June 27, 2006, mailing date of the Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US). Thus, applicants failed to engage in reasonable efforts to conclude processing or examination of this application. Accordingly, the period of adjustment set forth in § 1.703 should have been reduced under 37 CFR 1.704(b) by 37 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US), September 28, 2006, and ending on the date the reply was filed, November 3, 2006. A period of reduction of 37 days will be entered.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is **zero (0) days** (57 days of Office delay - 81 (37 + 1 + 17 + 23 + 3) days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in the calculation of the Patent Term Adjustment, the Office will not assess the \$200.00 application fee under 37 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

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

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

*Christina Tartera Donnell*

Christina Tartera Donnell  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of REVISED PALM screen

# PALM INTRANET

PTA Calculations for Application: <b>10/553607</b>			
Application Filing Date:	11/03/2006	PTO Delay (PTO):	57
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	21
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-60		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
67	09/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		37	
66	09/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		23	
58	06/11/2009	MAIL NOTICE OF ALLOWANCE			
57	06/10/2009	ISSUE REVISION COMPLETED			
56	06/10/2009	DOCUMENT VERIFICATION			
55	06/10/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
54	06/10/2009	EXAMINER'S AMENDMENT COMMUNICATION			
53	06/09/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
52	06/08/2009	NOTICE OF ALLOWABILITY			
51	04/13/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	04/10/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
49	04/13/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	04/13/2009	REFERENCE CAPTURE ON IDS			
47	04/13/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		3	44
46	04/10/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	04/17/2009	DATE FORWARDED TO EXAMINER			
44	04/10/2009	RESPONSE AFTER NON-FINAL ACTION			
43	04/13/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	04/13/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

41	04/10/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	01/22/2009	MAIL NON-FINAL REJECTION			
39	01/21/2009	NON-FINAL REJECTION			
38	12/16/2008	DATE FORWARDED TO EXAMINER			
37	12/12/2008	AMENDMENT AFTER FINAL REJECTION			
36	09/15/2008	MAIL FINAL REJECTION (PTOL - 326)			
35	09/02/2008	FINAL REJECTION			
34	06/16/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	07/09/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	07/09/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	06/16/2008	REFERENCE CAPTURE ON IDS			
30	06/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		17	28
29	06/29/2008	DATE FORWARDED TO EXAMINER			
28	05/30/2008	RESPONSE AFTER NON-FINAL ACTION		1	25
27	05/30/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	06/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	02/29/2008	MAIL NON-FINAL REJECTION	57		14
24	02/19/2008	NON-FINAL REJECTION			
22	01/23/2008	CASE DOCKETED TO EXAMINER IN GAU			
21	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
20	10/15/2007	FLAGGED FOR 5/25			
17	04/12/2007	PG-PUB ISSUE NOTIFICATION			
16	03/01/2007	CASE DOCKETED TO EXAMINER IN GAU			
15	02/07/2007	TRANSFER INQUIRY TO GAU			
14	11/03/2006	371 COMPLETION DATE			
13	01/03/2007	APPLICATION DISPATCHED FROM OIPE			
12	01/03/2007	NOTICE OF DO/EO ACCEPTANCE MAILED			
11	11/03/2006	ADDITIONAL APPLICATION FILING FEES			
10	11/03/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	01/03/2007	CORRESPONDENCE ADDRESS CHANGE			
4	12/13/2006	CASE CLASSIFIED BY OIPE			

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**EXPLANATION OF PTA CALCULATION**

**EXPLANATION OF PTE CALCULATION**

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WASHINGTON, DC 20001-4413

Mail Date: 04/23/2010

<b>Applicant</b>	: Wolfgang Becker	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7610582	: RECALCULATION of PATENT
<b>Issue Date</b>	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/553,607	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 11/03/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **291** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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Mark G. Lappin, P.C.  
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In re Application of	:	DECISION ON
RIVEST et al	:	
Application No.: 10/553,611	:	
PCT No.: PCT/US04/01845	:	
Int. Filing Date: 23 January 2004	:	PETITION UNDER
Priority Date: 25 January 2003	:	
Attorney's Docket No.: 67065-037(PEPL-0112)	:	
For: MICROPAYMENT PROCESSING	:	
METHOD AND SYSTEM	:	37 CFR 1.137(b)

This decision is in response to applicant's "Petition For Revival Of An International Application For Patent The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 18 October 2005. The petition fee of \$750.00 under 37 CFR 1.17(m) has been charged to Deposit Account No.: 50-1133.

**BACKGROUND**

On 23 January 2004, this international application was filed claiming an earliest priority date of 25 January 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 25 July 2005. This international application became abandoned with respect to the United States at midnight on 25 July 2005 for failure to pay the required basic national fee.

On 18 October 2005, applicants filed in the United States Patent and Trademark Office (PTO) a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the national basic fee, the instant petition under 37 CFR 1.137(b), 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; (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 having submitted 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

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08 JUN 2007



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PERKINS COIE LLP  
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In re Application of : DECISION ON  
Rivet et al :  
PCT No.: PCT/US04/01845 :  
Application No: 10/553,611 : PETITION UNDER  
Int. Filing Date: 23 January 2004 :  
Priority Date: 25 January 2005 :  
Attorney's Docket No.: 67065-037 (PEPL-0112) : 37 CFR 1.47(a)  
For: MICROPAYMENT PROCESSING :  
METHOD AND SYSTEM :

This is in response to the "PETITION UNDER 37 CFR 37 C.F.R. 1.47(A)" filed on 26 February 2007. The petition fee is now \$200.00 for a petition under 37 CFR 1.47(a) so the check of \$130.00 is insufficient to cover the petition fee.

**BACKGROUND**

In a decision from this Office on 16 June 2006, the petition to revive aforementioned application was granted.

On 24 July 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 the date of this Notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 26 February 2007, petitioner filed the present petition, a declaration in support of filing on behalf of omitted inventors Prasad Jonnalagadda, Perry Solomon and Robert Carney accompanied, inter alia, an executed Declaration without their signatures.

## DISCUSSION

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

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 not satisfied items (1) - (4) of 37 CFR 1.47(a).

Regarding item (1), petitioner has not provided the complete fee of \$200.00 under 37 CFR 1.17(g).

Regarding item (2), it has not been sufficiently demonstrated that a copy of the application papers were presented to the nonsigning inventors Prasad Jonnalagadda, Perry Solomon and Robert Carney. Petitioner asserts that the documents were e-mailed to them by Mr. Nix. The documents forwarded to them, however, did not appear to include a copy of the application papers (specification, including claims, drawings, and oath or declaration) as required under MPEP 409.03(d) because only two documents (declaration and assignment) were sent to them as indicated by Mr. Nix.

Regarding item (3), petitioner has provided a statement of the last known address of the missing inventors but it is unclear why the addresses of nonsigning inventors Prasad Jonnalagadda and Perry Solomon differ from the addresses stated in the declaration.

Regarding item (4), it is unclear if the signing inventors are Ronald L. Rivest, Silvio Micali, Joseph Bergeron III and Mark Bates are signing on their behalf and on the behalf of the nonsigning inventors. A statement that they are signing the declaration on behalf of the non-signing inventors is required. SEE MPEP 602.

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

### **CONCLUSION**

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

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

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



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27 FEB 2008



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In re Application of Rivet et al : DECISION ON RENEWED  
PCT No.: PCT/US04/01845 :  
Application No: 10/553,611 : PETITION UNDER  
Int. Filing Date: 23 January 2004 :  
Priority Date: 25 January 2005 :  
Attorney's Docket No.: 67065-037 (PEPL-0112) : 37 CFR 1.47(a)/ 1.181  
For: MICROPAYMENT PROCESSING :  
METHOD AND SYSTEM :

This is in response to the "RENEWED PETITION UNDER 37 CFR 1.47(a)," filed on 08 January 2008.

**BACKGROUND**

In a decision from this Office on 08 June 2007, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated that items (1)- (4) under 37 CFR 1.47(a) were not met, and the decision set a time period of response of two (2) months and extensions of time were available under 37 CFR 1.136(a).

On 05 December 2007, the United States Patent and Trademark Office mailed a "NOTICE OF ABANDONMENT" stating that the above-identified application is abandoned for failure to timely reply to the Decision on Petition mailed on 06/08/2007.

On 08 January 2008, petitioner submitted a "Renewed Petition Under 37 CFR 1.47(a) and Petition to Withdraw Holding of Abandonment under 37 CFR 1.181(a)" requesting reconsideration of the Office's decision of 08 June 2007, and to withdraw the abandonment mailed on 05 December 2007.

**DISCUSSION**

**PETITION UNDER 37 CFR 1.181:**

A review of the filed reveals that petitioner had time to response to the Decision mailed on 08 June 2007, and that petitioner's response on 08 January 2008 accompanied by a petition for a five-month extension time is timely.

The renewed petition under 37 CFR 1.47(a) is timely.

The petition under 37 CFR 1.181 is **GRANTED**. The Notice of Abandonment mailed on 05 December 2007 was in error and is hereby **VACATED**.

**PETITION UNDER 37 CFR 1.47(a):**

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the 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 satisfies requirements (1), (3), and (4) under 37 CFR 1.47(a) but not item (2).

Regarding requirement (1), petitioner has provided the complete fee of \$200.00 under 37 CFR 1.17(g).

With respect to requirement (2), although the averments of Ms. Kellie S. Bickel and the signed postal receipts are sufficient to support 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 inventors for their signatures, the time period for their responses before filing the petition was too short. The application papers were mailed on December 18, 2007 and received on December 22, 2007 and December 27, 2007 by Mr. Gione and Mr. Carney, respectively but the renewed petition was filed on 08 January 2008 (less than a month for the nonsigning inventors to read, and decide to whether to respond). In fact, an email from Perry Solomon on December 21, 2007 states that the "end of year is very busy time." Accordingly, this is a short time period (about two weeks) to make a determination that they refuse to sign the papers.

With respect to requirement (3), a statement of the last known address of the missing inventors have been provided.

- (i) Perry Solomon  
111 85<sup>th</sup> Street E #17G  
New York, New York 10028
  
- (ii) Robert Carney  
15 Newman Street  
Cambridge, Massachusetts 02140

Regarding requirement (4), petitioner has provided an executed declaration signed by Ronald L. Rivest, Silvio Micali, Robert Nix, Prasad Jonnalagadda, Joseph Bergeron iii and Mark Bates on their behalf and on the behalf of the nonsigning joint inventors Perry Solommon and Robert Carney.

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.

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

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 "Second 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.



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08 SEP 2006

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In re Application of MISHRA et al	:	
U.S. Application No.: 10/553,618	:	
PCT Application No.: PCT/US03/37114	:	
Int. Filing Date: 20 November 2003	:	
Priority Date Claimed: 20 November 2002	:	DECISION
Attorney Docket No.: 036017/US/2 - 475396-00153	:	
For: SYSTEM, PROCESS AND SOFTWARE	:	
ARRANGEMENT FOR DISEASE	:	
DETECTION USING GENOME WIDE	:	
HAPLOTYPE MAPS	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 17 October 2005.

**BACKGROUND**

On 20 November 2003, applicant filed international application PCT/US03/37114, which claimed priority of an earlier United States application filed 20 November 2002. The thirty-month period for paying the basic national fee in the United States expired on 20 May 2005.

International application PCT/US03/37114 became abandoned as to the United States for failure to timely pay the basic national fee.

On 17 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), applicant has provided the required statement.

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

### CONCLUSION

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

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



Bryan Tung  
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JUL 08 2009

**OFFICE OF PETITIONS**

In re Application of :  
Sinclair et al. :  
Application No. 10/553,621 : DECISION ON PETITION  
Filed: October 17, 2005 : PURSUANT TO  
Attorney Docket No.: : 37 C.F.R. § 1.181(A)  
ObjectDetect2 :  
Title: OBJECT DETECTION SYSTEM :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application, filed on April 6, 2009.

This petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 11, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 12, 2007. A notice of abandonment was mailed on December 27, 2007.

A grantable petition pursuant to 37 C.F.R § 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may

- require additional information where there is a question whether the delay was unintentional, and;
- (2) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

37 C.F.R. § 10.18(a) sets forth, *in toto*:

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, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this chapter.

**This petition has been submitted without a signature**, and as such, the petition cannot be processed. For this reason, the petition must be dismissed.

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

Any subsequent filing pertaining to the abandonment of this application should indicate that the attorney handling this matter is Paul Shanowski, and may be submitted by mail,<sup>1</sup> hand-delivery,<sup>2</sup> or facsimile.<sup>3</sup> Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.<sup>4</sup>

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.<sup>5</sup> All other inquiries

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

2 Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

3 (571) 273-8300- please note this is a central facsimile number.

4 <https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html>

5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is

concerning examination procedures should be directed to the  
Technology Center.



Paul Shanowski  
Senior Attorney  
Office of Petitions

---

reminded that no telephone discussion may be controlling or considered  
authority for any further action(s) of Petitioner.



15 MAR 2006

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Robert J. Goodell  
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Washington, D.C. 20004

In re application of	:	
IWAKURA, Masahiro; et al.	:	
U.S. Application No.: 10/553,626	:	DECISION ON PETITION
Filing Date: 09 April 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.:040894-7330	:	
For: PROTEIN ARRAY AND PROCESS	:	
FOR PRODUCING THE SAME	:	

This decision is in response to applicants' "Petition to Revive an Abandoned Application under 37 CFR 1.37(b)" filed 07 March 2006 in the United States Patent and Trademark Office (USPTO).

**BACKGROUND**

On 09 April 2004, applicants filed international application PCT/JP04/005150 which claimed priority of an earlier application filed 10 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, 10 October 2005.

On 07 March 2006, 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); and the present petition to revive pursuant to 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 required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response, i.e., the submission of the basic national fee has been received.

As to Item (2), the appropriate petition fee of \$1500.00 as required by 37 CFR 1.17(m) has been paid.

With regard to Item (3), applicant's statement that "[t]he entire delay in filing the national stage application in the USPTO as well as the entire delay in filing this Petition from the due date set forth by 37 C.F.R. 1.495(b) until the filing of this Petition was unintentional" is construed to mean "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. If this interpretation is incorrect, Applicant must immediately notify the Office of PCT Legal Administration. As such, the requirement under 37 C.F.R. 1.137(b)(3) has been satisfied.

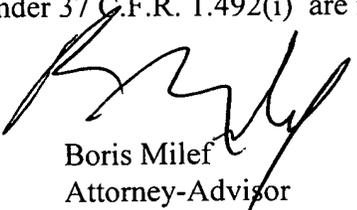
As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

### CONCLUSION

All of the requirements of 37 CFR 1.137(b) have been met and applicant's petition to revive is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 C.F.R. 1.497(a)-(b), a surcharge fee under 37 C.F.R. 1.492(h), a translation of the international application and a processing fee under 37 C.F.R. 1.492(i) are required.

  
Terrence R. Till  
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**DEC 15 2008**

In re Application of :  
Svenn Kluver JEPSEN :  
Application No. 10/553,629 : **DECISION ON PETITION**  
Filed: July 20, 2006 : **TO WITHDRAW**  
Attorney Docket No. 052209-0140 : **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 17, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Courtenay C. Brinckerhoff behalf of the attorneys of record associated with Customer No. 22428.

The attorneys of record associated with Customer No. 22428 have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a

chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.



Diane Goodwyn  
Petitions Examiner  
Office of Petitions

cc: SVENN KLUVER JEPSEN  
KOLLEMOSEVEJ 33D  
HOLTE DK-2840  
DENMARK



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

**COPY MAILED  
JAN 21 2009**

In re Application of	:	
<b>WIDERSTROM, Carin</b>	:	
Application No. 10/553,630	:	DECISION ON PETITION
Filed: August 21, 2006	:	TO WITHDRAW
Attorney Docket No. (15041.10USWO)	:	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 17, 2008.

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

A review of the file record indicates that the power of attorney to Foley and Lardner LLP has been revoked by the assignee of the patent application on January 13, 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 Michelle R. Eason at 571-272-4231.

Michelle R. Eason  
Paralegal Specialist  
Office of Petitions

cc: **MERCHANT & GOULD PC  
P.O. BOX 2903  
MINNEAPOLIS MN 55402-0903**



17 APR 2006

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#5

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LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK  
600 SOUTH AVENUE WEST  
WESTFIELD NJ 07090

In re Application of	:	
CHAIVIGNAC	:	
Serial No.: 10/553,643	:	DECISION ON
PCT App. No.: PCT/IB04/00898	:	
Int'l Filing Date: 27 January 2004	:	PETITION UNDER
Priority Date: 27 January 2003	:	
Attorney Docket No.: SAIME 3.3-003	:	37 CFR 1.137(b)
For: BREATHING ASSISTANCE DEVICE,	:	
AND METHOD OF REGULATION	:	

The petition to revive under 37 CFR 1.137(b) filed 14 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 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. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 14 October 2005.

Cynthia M. Kratz  
Attorney Advisor  
Office of PCT Legal Administration

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



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BAKER & DANIELS LLP  
111 E. WAYNE STREET  
SUITE 800  
FORT WAYNE, IN 46802

Mail Date: 04/21/2010

<b>Applicant</b>	: Emil Stark	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7654285	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/553,645	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 07/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **460** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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David A. Einhorn, Esq.  
Baker & Hostetler LLP  
45 Rockefeller Plaza  
New York, NY 10111

Mail Date: 07/23/2010

<b>Applicant</b>	: Tae Wan Kim	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7655307	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/553,647	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 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 **952** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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DEC 14 2006

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

In re Application of :  
Serguei Soukharev et al :  
Serial No.: 10/553,650 : PETITION TO MAKE SPECIAL  
Filed: October 14, 2005 :  
Attorney Docket No.: 089548-0155 :

This is in response to the petition filed on October 14, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

M.P.E.P. 708.02, part XI relates to petitions to make an application special for countering terrorism.

International terrorism as defined in 18 U.S.C. 2331 includes activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping... The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Applicant meets the requirements of the above section. Therefor the petition is **GRANTED**.

The application will be acted on by the assigned examiner in due course.

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

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



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SMART & BIGGAR  
P.O. BOX 2999, STATION D  
900-55 METCALFE STREET  
OTTAWA, ON K1P 5Y6  
CANADA

Mail Date: 06/22/2010

<b>Applicant</b>	: Kenneth Kao	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7635560	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/553,661	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 10/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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



30 APR 2007

David M. McConoughey  
Stoll, Miskin & Badie  
350 Fifth Ave. Ste. 4710  
New York NY 10118-4710

In re Application of :  
EDUARDO DIAZ DEL RIO PEREZ : DECISION ON  
Application No.: 10/553,663 :  
PCT No.: PCT/IB04/01539 : PETITION  
Int. Filing Date: 16 April 2004 :  
Priority Date: 18 April 2003 : UNDER 37 CFR 1.47(b)  
Attorney's Docket No.: 576391-2003 :  
For: EXPLOSION-INHIBITING ARTICLES OF :  
MANUFACTURE :

This is a decision on petition under 37 CFR 1.47(b), filed 09 November 2006 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing sole inventor, EDUARDO DIAZ DEL RIO PEREZ. Applicant's request for a three month extension of time is granted.

### **BACKGROUND**

On 16 April 2004, applicant filed international application No. PCT/IB04/01539 which claimed a priority date of 18 April 2003, and which designated the United States. A copy of the international application was communicated to the United States by the International Bureau on 28 October 2004.

On 17 October 2005, within 30 months from the priority date, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, basic national filing fee.

On 09 June 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b) must be furnished within two months from the mail date of the notice or the application would be abandoned. Extensions of time were available.

On 09 November 2006, petitioner filed the instant petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was accompanied by a Statement of David M. McConoughey, regarding inventor Eduardo Diaz Del Rio Perez's refusal to sign the application, a declaration executed by the nonsigning inventor directed to the prior filed provisional application, and a copy of an Agreement executed by inventor Eduardo Diaz Del Rio Perez, which identifies the U.S. priority application.

### DISCUSSION

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

Petitioner has satisfied Item (1), with the payment of the required \$200 petition fee charged to Petitioner's deposit account per his authorization.

With regard to Item (2), petitioner is attempting to provide adequate proof that the sole inventor refuses to sign the application. Specifically, Mr. McConoughey's declaration states, and accompanying exhibits demonstrate, that in a 29 September 2006 letter, he requested the nonsigning inventor Diaz Del Rio Perez to execute the declaration for this application. The letter included a copy of the international application and declaration. Thereafter, on 6 November 2006, Mr. McConoughey communicated with the nonsigning inventor's lawyer, Daniel J. O'Connor. Mr. O'Connor indicated that he would "see what he could do with respect to the execution of the declaration by the inventor." No reply from either the nonsigning inventor or his attorney was received. On 9 November 2006, applicant filed the instant petition. Three days is insufficient time to allow the nonsigning inventor's counsel to reach Mr. Diaz Del Rio Perez and confirm his willingness or unwillingness to sign the application. Applicant has not yet satisfied Item (2).

Item (3) is satisfied because Petitioner provided a statement of the last known address of the inventor.

As for Item (4), Petitioner provided a declaration executed by the inventor directed to the provisional application. What is required is a declaration executed on behalf of the nonsigning inventor and identifying the 37 CFR 1.47(b) applicant. Here, the declaration does not fulfill the requirement of 37 CFR 1.497(b) and a newly executed declaration is required which complies with 37 CFR §§1.497(a) and (b) and 1.47(b). 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). The 37 CFR 1.47(b) applicant must state his or her relationship to the inventor as required by 37 CFR 1.64. See MPEP §409.03(b) for further details. Item (4) is not yet satisfied.

Regarding item (5), Section 409.03(f) of the MPEP, **Proof of Proprietary Interest**, states, in part:

When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that

- (A) the invention has been assigned to the applicant, or
- (B) the inventor has agreed in writing to assign the invention to the applicant, or
- (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

If the application has been assigned, a copy of the assignment (in the English Language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR

1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324)....

When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. 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 the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

If 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.

Here, petitioner is attempting to prove that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the subject matter to justify filing the application. The assignment, attached to the petition, is between Eduardo Diaz Del Rio Perez and Fusaco IP Sarl. The assignment is defective to prove the proprietary interest because the assignment does not identify the U.S. application at issue, but identifies provisional priority application. Applicant does not demonstrate how this agreement is directed to the above referenced application.

Where there is no written agreement to assign or the invention has not been assigned, petitioner must demonstrate a proprietary interest by an appropriate legal memorandum. No such statement is found for such purpose. As stated above and reiterated here, 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 is required. 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. A statement under 37 CFR 3.73(b) by the assignee must also be submitted. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324. Item (5) is not satisfied.

As for Item (6), irreparable damage may be established by a showing (a statement) that a filing date is necessary to preserve the rights of the party and to prevent irreparable damage. Such statement has been presented (section F of the petition). Thus, item (6) is satisfied.

Accordingly, items (2), (4) and (5) above are not satisfied and the petition under 37 CFR 1.47(b) must be dismissed.

### CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED WITHOUT PREJUDICE**.

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

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.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

Tel: 571-272-3286  
Fax: 571-273-0459

28 DEC 2007



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David M. McConoughey  
Stoll, Miskin & Badie  
350 Fifth Ave. Ste. 4710  
New York NY 10118-4710

In re Application of :  
EDUARDO DIAZ DEL RIO PEREZ : DECISION ON  
Application No.: 10/553,663 :  
PCT No.: PCT/IB04/01539 : PETITION  
Int. Filing Date: 16 April 2004 :  
Priority Date: 18 April 2003 : UNDER 37 CFR 1.47(b)  
Attorney's Docket No.: 576391-2003 :  
For: EXPLOSION-INHIBITING ARTICLES OF :  
MANUFACTURE :

This is a decision on petition under 37 CFR 1.47(b), filed 30 October 2007 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing sole inventor, EDUARDO DIAZ DEL RIO PEREZ. Applicant's request for a four month extension of time is granted.

### BACKGROUND

On 16 April 2004, applicant filed international application No. PCT/IB04/01539 which claimed a priority date of 18 April 2003, and which designated the United States. A copy of the international application was communicated to the United States by the International Bureau on 28 October 2004.

On 17 October 2005, within 30 months from the priority date, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, basic national filing fee.

On 09 June 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b) must be furnished within two months from the mail date of the notice or the application would be abandoned. Extensions of time were available.

On 09 November 2006, petitioner filed a petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was accompanied by a Statement of David M. McConoughey, regarding inventor Eduardo Diaz Del Rio Perez's refusal to sign the application, a declaration executed by the nonsigning inventor directed to the prior filed provisional application, and a copy of an Agreement executed by inventor Eduardo Diaz Del Rio Perez.

On 30 April 2007, a decision dismissing the petition was mailed indicating that applicant had not demonstrated with factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; had not submitted an oath or declaration by the 37 CFR

1.47(b) applicant on behalf of and as agent for the non-signing inventor; and had not submitted proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application.

### DISCUSSION

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

Petitioner previously satisfied Item (1), (3) and (6) .

With regard to Item (2), petitioner has provided adequate proof that the sole inventor refuses to sign the application. Specifically, counsel for assignee David McConoughey enumerates several attempts to contact the nonsigning inventor for his signature on the application through his attorney, without success. In a 29 September 2006 letter, Mr. McConoughey requested the nonsigning inventor Diaz Del Rio Perez to execute the declaration for this application. The inventor never responded to this letter. Thereafter, on 6 November 2006, 31 August 2007, 03 October 2007 and 11 October 2007, Mr. McConoughey communicated with the nonsigning inventor's lawyer, Daniel J. O'Connor in an attempt to obtain the nonsigning inventor's signature on the application papers. These attempts were unsuccessful. This is sufficient evidence to show that the inventor is unwilling to sign the application papers. Applicant has now satisfied Item (2).

As for Item (4), Petitioner provided a declaration executed by the inventor directed to the international application. The declaration is executed on behalf of the nonsigning inventor and identifies the 37 CFR 1.47(b) applicant. The declaration fulfills the requirement of 37 CFR 1.497(b) and complies with 37 CFR §§1.497(a) and (b) and 1.47(b). Item (4) is now satisfied.

Regarding item (5), the 37 CFR 1.47(b) applicant has proven that the invention has been assigned to the applicant. The assignment, attached to the petition, is between Eduardo Diaz Del Rio Perez and Fusaco IP Sarl. Counsel has demonstrated how this agreement is directed to the above referenced application. However, a statement under 37 CFR 3.73(b) by the assignee must also be submitted and is still outstanding. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324. Item (5) is not satisfied.

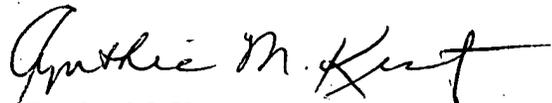
Accordingly, item (5) above is not satisfied and the petition under 37 CFR 1.47(b) must be dismissed.

### CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED WITHOUT PREJUDICE**.

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

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.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

Tel: 571-272-3286  
Fax: 571-273-0459



17 JUN 2008

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.govDavid M. McConoughey  
Stoll, Miskin & Badie  
350 Fifth Ave. Ste. 4710  
New York NY 10118-4710

In re Application of :  
EDUARDO DIAZ DEL RIO PEREZ : DECISION ON  
Application No.: 10/553,663 :  
PCT No.: PCT/IB04/01539 : PETITION  
Int. Filing Date: 16 April 2004 :  
Priority Date: 18 April 2003 : UNDER 37 CFR 1.47(b)  
Attorney's Docket No.: 576391-2003 :  
For: EXPLOSION-INHIBITING ARTICLES OF:  
MANUFACTURE :

This is a decision on renewed petition under 37 CFR 1.47(b), filed 28 April 2008 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing sole inventor, EDUARDO DIAZ DEL RIO PEREZ. Applicant requested a two month extension of time, which is granted.

### **BACKGROUND**

On 09 November 2006, petitioner filed a petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was accompanied by a Statement of David M. McConoughey, regarding inventor Eduardo Diaz Del Rio Perez's refusal to sign the application, a declaration executed by the nonsigning inventor directed to the prior filed provisional application, and a copy of an Agreement executed by inventor Eduardo Diaz Del Rio Perez.

On 30 April 2007, a decision dismissing the petition was mailed indicating that applicant had not demonstrated with factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; had not submitted an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor; and had not submitted proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application.

On 30 October 2007, applicant filed a renewed petition under 37 CFR 1.47(b), which was dismissed in a decision mailed on 18 December 2007. On 28 December 2007, a decision dismissing the petition was mailed.

On 28 April 2008, a renewed petition was filed along with a statement under 37 CFR 3.73(b).

### **DISCUSSION**

A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration

by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

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

Regarding item (5), the 37 CFR 1.47(b) applicant previously proved that the invention has been assigned to the applicant. The assignment, attached to the petition, is between Eduardo Diaz Del Rio Perez and Fusaco IP Sarl. Counsel has demonstrated how this agreement is directed to the above referenced application. With the renewed petition, applicant has provided a statement under 37 CFR 3.73(b) by the assignee. Item (5) is now satisfied.

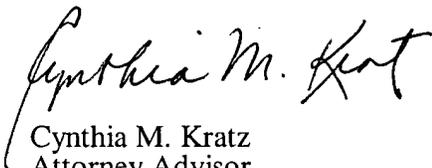
Accordingly, the petition under 37 CFR 1.47(b) is GRANTED.

### CONCLUSION

The petition under 37 CFR §1.47(b) is GRANTED.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(b) application using the declaration filed 30 October 2007. The application has an international filing date of 16 April 2004 under 35 U.S.C. 363, and a date of 30 October 2007 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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



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

Tel: 571-272-3286  
Fax: 571-273-0459



10 7 JUN 2008

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

Eduardo Diaz Del Rio Perez  
Calle Caleruega No. 3  
Madrid  
SPAIN 28033

Daniel J. O'Connor  
Baker & McKenzie LLP  
One Prudential Plaza  
130 East Randolph Drive  
Chicago, IL 60601

In re Application of	:	
EDUARDO DIAZ DEL RIO PEREZ	:	DECISION ON
Application No.: 10/553,663	:	
PCT No.: PCT/IB04/01539	:	PETITION
Int. Filing Date: 16 April 2004	:	
Priority Date: 18 April 2003	:	UNDER 37 CFR 1.47(b)
Attorney's Docket No.: 576391-2003	:	
For: EXPLOSION-INHIBITING ARTICLES OF:	:	
MANUFACTURE	:	

Dear Mr. Diaz Del Rio Perez :

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

David M. McConoughey  
Stoll, Miskin & Badie  
350 Fifth Ave. Ste. 4710  
New York NY 10118-4710



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

**COPY MAILED**

**APR 03 2008**

**OFFICE OF PETITIONS**

Applicant: Strittmatter et al.

Appl. No.: 10/553,669

International Filing Date: April 16, 2004

Title: NOGO-RECEPTOR ANTAGONISTS FOR THE TREATMENT OF CONDITIONS INVOLVING AMYLOID PLAQUES

Attorney Docket No.: 2159.0470001/EJH/SAC

Pub. No.: US 2007/0065429-A1

Pub. Date: March 22, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 2, 2007, for the above-identified application.

The request is DISMISSED.

Applicants request that the application be republished because Stephen M. Strittmatter was not listed as the first named inventor on the front page of the patent application publication.

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

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

The Combined Declaration and Power of Attorney forms submitted by applicant on August 9, 2006 are improper because each Declaration does not include a complete listing of the inventors. When multiple Declarations are submitted, each Declaration must be complete and contain a complete listing of all the inventors. See MPEP 201.03(II)(B) and MPEP 605.04(a).

---

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

On December 13, 2006, a Filing Receipt was mailed by the Office, which improperly listed the inventive entity. To avoid this type of problem in the future, applicant's representative should review the Filing Receipt and make a request for a Corrected Filing Receipt.

To change the order of the inventors after a declaration has been submitted, applicant is required to submit a petition and fee under 37 CFR 1.182. See MPEP 605.04(f).

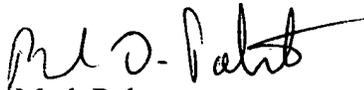
Applicants are advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication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

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

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

By facsimile: 571-273-8300

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



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



13 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

STERNE, KESSLER, GOLDSTEIN & FOX, P.L.L.C.  
1100 New York Avenue, NW  
Washington, DC 20005

In re Application of :  
MIA, Sha *et al* :  
U.S. Application No.: 10/553,685 :  
PCT No.: PCT/US2004/008223 :  
Int. Filing Date: 17 March 2004 :  
Priority Date: 19 March 2003 :  
Attorney's Docket No.: 2159.0440003/EJH/J-H :  
For: NOGO RECEPTOR BINDING :  
PROTEIN :

**DECISION**

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 17 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.

No declaration was provided.

Accordingly, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee is required.

James Thomson  
Attorney Advisor  
Office of PCT Legal Administration

Tel.: (571) 272-3302



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
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www.uspto.gov

Craig H Evans  
E I Du Pont De Nemours and Company  
Legal Patent Records Center  
4417 Lancaster Pike  
Wilmington, DE 19898

Mail Date: 04/21/2010

<b>Applicant</b>	: Akiko Mizutani	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7619034	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/553,691	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 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 **471** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 JUN 2007

HENRY M FEIEREISEN, LLC  
350 FIFTH AVENUE  
SUITE 4714  
NEW YORK, NY 10118

In re Application of PFANNSCHMIDT et al :  
U.S. Application No.: 10/553,698 :  
PCT Application No.: PCT/EP2004/003475 :  
Int. Filing Date: 01 April 2004 :  
Priority Date Claimed: 16 April 2003 : DECISION  
Attorney Docket No.: PFANNSCHMIDT-2 :  
For: ELECTRIC MACHINE PROVIDED WITH :  
COOLED METAL STACKS AND :  
WINDINGS OF THE STATOR ROTOR :

This is in response to applicant's "Petition Under 37 C.F.R. 1.181" filed 21 June 2007.

**BACKGROUND**

On 01 April 2004, applicant filed international application PCT/EP2004/003475, which claimed priority of an earlier Germany application filed 16 April 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 28 October 2004. The thirty-month period for paying the basic national fee in the United States expired on 17 October 2005 (16 October 2005 was a Sunday).

On 17 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 06 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 03 August 2006, applicant filed an executed declaration.

On 30 October 2006, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903), which indicated that the application as filed contained 10 claims and also indicated a date under 35 U.S.C. 371 of 23 August 2006.

On 21 June 2007, applicant filed the present petition under 37 CFR 1.181.

### DISCUSSION

A review of the application file reveals that there were 11 claims present at the time of filing and that the 35 U.S.C. 371 requirements were met on 03 August 2006.

### CONCLUSION

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

The Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 30 October 2006 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of: (1) a corrected Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) which should indicate a date under 35 U.S.C. 371 of 03 August 2006 and (2) a corrected filing receipt which should indicate a 371(c) date of 03 August 2006 and 11 total claims.

*Bryan Lin*

Bryan Lin  
PCT Legal Examiner  
PCT Legal Office

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



PATRICK P ZARETSKI  
ATTORNEY-AT-LAW  
51 YOUNG AVENUE  
TOTOWA NJ 07512-2044

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MAY 22 2008

**OFFICE OF PETITIONS**

In re Application of  
James Schroeder  
Application No. 10/553,701  
Filed: May 27, 2005  
Attorney Docket No.: P-71804-1

:  
: **DECISION ON PETITION**  
:  
:  
:

This is a decision on the petition under 37 CFR 1.182 to expedite the petition under 1.181, filed February 22, 2008.

The petition under 37 CFR 1.182 is **DISMISSED as unnecessary.**

In response to a Petition to Withdraw the Holding of Abandonment, filed February 22, 2008 under 37 CFR 1.181, the Notice of Abandonment was rescinded in a Notice of Rescinded Abandonment mailed May 13, 2008.

In view thereof, there is no need to treat the petition to expedite. The petition fee in the amount of \$400 is also unnecessary and will be refunded in due course. This matter is being forwarded to the Publishing Division.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions



29 APR 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Hanley, Flight & Zimmerman, LLC  
150 S. Wacker Drive  
Suite 2100  
Chicago, IL 60606

In re Application of  
STARK, Emil

Application No.: 10/553,712 :  
PCT No.: PCT/EP2004/003946 :  
Int. Filing Date: 15 April 2004 :  
Priority Date: 15 April 2003 :  
Atty. Docket No.: 102132-30 :  
For: QUICK ACTION CLAMPING :  
CYLINDER WITH A SIMPLIFIED :  
STRUCTURE :

DECISION

This decision is issued in response to applicant's "Request Correction of Filing Receipt" filed 18 February 2010 and to the "Transmittal of Substitute Declaration" submitted on 05 April 2010 treated herein as a petition under 37 CFR 1.182 to treat the present application as a national stage of PCT/EP2004/003946. Deposit Account No. 50-2455 will be charged the required petition fee, as authorized in the 05 April 2010 communication.

**BACKGROUND**

On 15 April 2004, applicant filed international application PCT/EP2004/003946 which claimed a priority date of 15 April 2003. On 28 October 2004, a copy of the international application was communicated to the United States Patent and Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 17 October 2005. (15 October 2005 was a Saturday and 16 October 2005 was a Sunday.)

On 17 October 2005, applicant filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, a preliminary amendment, and a translation into English of the international application PCT/EP2004/003946. The Transmittal Letter identified the application as a national stage of PCT/DE2004/003946, filed 15 April 2004.

Based on the international application number listed on the Transmittal Letter, the present application file was established as a national stage of PCT/DE2004/003946.

On 23 October 2006, applicant filed an executed declaration which identified the application as a national stage of PCT/DE2004/003946, filed 15 April 2004.

On 04 April 2007, the USPTO mailed a Notification Of Acceptance indicating that the application was a national stage of PCT/DE2004/003946 (the filing receipt also listed the application as a national stage of PCT/DE2004/003946).

On 18 February 2010, applicant filed "Request Correction of Filing Receipt."

On 05 April 2010, applicant filed "Transmittal of Substitute Declaration" which is being treated as a petition under 37 CFR 1.182.

### DISCUSSION

As noted above, the Transmittal Letter filed by applicant to initiate this national stage application identified the submission as a national stage of PCT/DE2004/003946. The present submission filed by applicant confirms that the listing of PCT/DE2004/003946 on the original application materials was incorrect, and that the application was intended as a national stage of PCT/EP2004/003946.<sup>1</sup> Because the present application was created as a national stage of PCT/DE2004/003946 based on applicant's original submission, correction of the application to indicate that it is a national stage of PCT/EP2004/003946 requires a petition under 37 CFR 1.182. The "Transmittal of Substitute Declaration" has been treated as such a petition. Applicant has authorized a charge to Deposit Account No. 50-2455 for required fees; based on this authorization, Deposit Account No. 50-2455 will be charged the required \$400 petition fee.

It is noted that the 05 April 2010 declaration has been reviewed and is in compliance with 37 CFR 1.497(a)-(b).

The petition to treat the present application as a national stage of PCT/EP2004/003946 is granted. The Notification Of Acceptance and filing receipt mailed 04 April 2007 (both of which indicate that the application is a national stage of PCT/DE2004/003946), are appropriately vacated.

### CONCLUSION

The petition under 37 CFR 1.182 is GRANTED.

USPTO records will be corrected to indicate that the present application is the national stage of PCT/EP2004/003946 with an international filing date of 15 April 2004 and claims priority to DE 103.17 350.1 (15 April 2003). The 35 U.S.C. 371(c) date is 05 April 2010.

---

<sup>1</sup> It is noted that the submission included a preliminary amendment which identified the correct international application number, PCT/EP2004/003946.

The Notification Of Acceptance and filing receipt mailed 04 April 2007 are hereby VACATED based on their identification of the present application as a national stage of PCT/DE2004/003946.

This application is being returned to the National Stage Processing Branch of the Office Of PCT Operations for processing in accord with this decision, including: (1) correcting USPTO records so as to identify the present application as a national stage of PCT/EP2004/003946; and (2) issuing a corrected Notification Of Acceptance; and (3) issuing a corrected filing receipt which properly identifies the application as a national stage of PCT/EP2004/003946.



Anthony Smith  
Attorney-Advisor  
Office of PCT Legal Administration

Tel.: 571-272-3298



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ROBERT D. BECKER  
MANATT, PHELPS & PHILLIPS  
1001 PAGE MILL ROAD, BUILDING 2  
PALO ALTO, CA 94304

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SEP 07 2007

**OFFICE OF PETITIONS**

In re Application of :  
Christian Hubschwerlen, et al. :  
Application No. 10/553,721 :  
Filed: January 21, 2006 :  
Attorney Docket No. 25587-036 :

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 16, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Manatt, Phelps & Phillips has been revoked by the assignee of the patent application on July 3, 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: SCOTT MCKEOWN  
OBLON, SPIVAK, MCCLELLAND,  
MAIER & NEUSTADT, PC  
1940 DUKE STREET  
ALEXANDRIA, VA 22314-3412

10 NOV 2005

#3



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ALEXANDRIA, VA 22313-1450  
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Peter F. Corless  
EDWARDS & ANGELL, LLP  
P.O. Box 55874  
Boston, Massachusetts 02205

In re Application of	:	DECISION ON
Christian Hubschwerlen et al	:	
Application No.: 10/553,731	:	
PCT No.: PCT/EP04/003306	:	
Int. Filing Date: 29 March 2004	:	PETITION UNDER
Priority Date: 08 April 2003	:	
Attorney's Docket No.: 64348(41925)	:	
For: NOVEL COMPOUNDS HAVING AN	:	
ANTI-BACTERIAL ACTIVITY	:	37 CFR 1.137(b)

This decision is in response to applicants' "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 18 October 2005.

**BACKGROUND**

On 29 March 2004, this international application was filed, claiming an earliest priority date of 08 April 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 08 October 2005. This international application became abandoned with respect to the United States at midnight on 08 October 2005 for failure to pay the required basic national fee.

On 18 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.

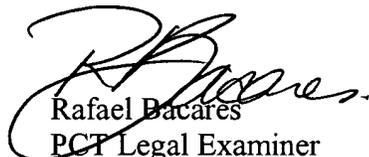
Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

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.



Rafael Bacares  
PCT Legal Examiner  
PCT Legal Office  
Telephone: (571) 272-3276  
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DIEDERIKS & WHITELAW, PLC  
13885 HEDGEWOOD DR., SUITE 317  
WOODBIDGE, VA 22193

Mail Date: 04/21/2010

Applicant : Real Champagne : DECISION ON REQUEST FOR  
Patent Number : 7608217 : RECALCULATION of PATENT  
Issue Date : 10/27/2009 : TERM ADJUSTMENT IN VIEW  
Application No : 10/553,740 : OF WYETH AND NOTICE OF INTENT TO  
Filed : 10/20/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

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

The patent term adjustment has been determined to be **1008** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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Table with columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO., EXAMINER, ART UNIT, PAPER NUMBER, MAIL DATE, DELIVERY MODE. Includes application details for 10/553,741 filed 09/17/2008 by Minoru Nakano.

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)
The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will not be recognized for the reason(s) indicated below:

- 1. [ ] The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. [ ] The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. [X] The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. [ ] The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell (handwritten signature)

Patent Publication Branch
Office of Data Management



08 SEP 2006

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James Oliff  
Oliff & Berridge, PLC  
P.O. Box 19928  
Alexandria, Virginia 22320

In re Application of :  
WASAKI et al. :  
Application No.: 10/553,752 :  
PCT No.: PCT/JP04/05883 :  
Int. Filing Date: 23 April 2004 :  
Priority Date: 24 April 2003 :  
Attorney Docket No.: 125703 :  
For: NORMAL MODE NOISE SUPPRESSING  
CIRCUIT

DECISION ON  
PAPERS UNDER 37 CFR 1.42

This decision is issued in response to the declaration filed 18 October 2005 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

### **BACKGROUND**

On 23 April 2004, applicants filed international application PCT/JP04/05883, which claimed a priority date of 24 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, 24 October 2005.

On 18 October 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; an application data sheet; a preliminary amendment; and an executed declaration. The declaration is executed by: Yoshihiro Saitoh as inventor and Hitomi Wasaki on behalf of deceased inventor, Masaru Wasaki.

### **DISCUSSION**

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

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

The declaration filed 18 October 2005 is executed by Hitomi Wasaki as the legal representative of the deceased inventor and provides his/her residence, post office address and

country of citizenship. In addition, the declaration provides the residence, post office address and country of citizenship of the deceased inventor. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b).

**CONCLUSION**

The renewed submission under 37 CFR 1.42 is GRANTED.

The application has an international filing date of 23 April 2004 under 35 U.S.C. 363, and will be given a date of 18 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 for processing in accordance with this decision.



Anthony Smith  
Attorney-Advisor  
Office of PCT Legal Administration  
Tel: (703) 308-6314  
Fax: (703) 308-6459



31 OCT 2006

Roger L. Browdy  
Browdy And Neimark, P.L.L.C.  
624 Ninth Street, N.W., Suite 300  
Washington, D.C. 2001

In re Application of	:	
KVITNITSKY, et al.	:	
U.S. Application No.: 10/553,757	:	DECISION ON PETITION
PCT No.: PCT/IL04/00343	:	
Int. Filing Date: 21 April 2004	:	UNDER 37 CFR 1.47(a)
Priority Date: 21 April 2003	:	
Attorney Docket No.: KVITNITSKY1A	:	
For: STABILIZED DERIVATIVES OF ASCORBIC	:	
ACID	:	

This decision is in response to the applicant's "Petition Under 37 CFR §1.47 (a) " filed 06 October 2006 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor Vladimir Babtsov.

**BACKGROUND**

On 21 April 2004, applicant filed international application PCT/IL04/00343 which claimed priority to an earlier application filed 21 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 04 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 21 October 2005.

On 20 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 and a first preliminary amendment.

On 08 August 2005, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 06 October 2006, applicant filed the present petition under 37 CFR 1.47

## DISCUSSION

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

Regarding item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature."

Applicant has provided a firsthand statement from Mr. Ron Folman explaining that prior to the papers being mailed to him inventor Babtsov stated that he would not executed documents for the present application. In addition, applicant has included a declaration from Ms. Beverly Benaroya detailing her efforts to supply Mr. Babstov with a complete set of the application papers accompanied by exhibits showing that the registered mailing was never picked up at the post office. This evidence seems to indicate that Mr. Babstov refused to go to the post office to pick up the mailing consistent with his earlier comments to Mr. Folman that he was not interested in signing any documents for this application. However, the mailing process is not entirely clear. Before the petition can be granted applicant should confirm to the office that Mr. Babstov lived at the address in question when the notice was left. This is to make sure that the parcel was not picked up or delivered since the address was no longer valid. The post office should be able to confirm that if Mr. Babstov no longer lived at the address in question a different notation would have been made. This is necessary since if the inventor had moved additional effort would be necessary to locate a current address.

Regarding item (4), while applicant has submitted a declaration signed by the remaining inventors on their own and on behalf of the non-signing inventors, however, the declaration does not comply with 37 CFR 1.497. The declaration signed by the remaining inventors on their behalf, and on behalf of the non-signing inventor contains three pages numbered "Page 3 of 3 Pages." This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signatures pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.)

In light of the above it is not possible to grant applicant's petition under 37 CFR 1.47(a) at this time.

**CONCLUSION**

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

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." 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



Roger L. Browdy  
Browdy And Neimark, P.L.L.C.  
624 Ninth Street, N.W., Suite 300  
Washington, D.C. 2001

**13 FEB 2007**

In re Application of :  
KVITNITSKY, et al. :  
U.S. Application No.: 10/553,757 : DECISION ON RENEWED  
PCT No.: PCT/IL04/00343 :  
Int. Filing Date: 21 April 2004 : PETITION UNDER  
Priority Date: 21 April 2003 :  
Attorney Docket No.: KVITNITSKY1A : 37 CFR 1.47(a)  
For: STABILIZED DERIVATIVES OF ASCORBIC :  
ACID :

This decision is in response to the applicant's "RENEWED PETITION UNDER 37 C.F.R. § 1.47(a)" filed 03 January 2007 in the United States Patent and Trademark Office (USPTO).

### BACKGROUND

On 31 October 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 Vladimir Babtsov. Applicant was afforded two months to file a renewed petition.

On 03 January 2007, applicant filed the renewed petition under 37 CFR 1.47(a) discussed herein. With 31 December 2006 being a Sunday and the USPTO being closed on both 01 and 02 January 2007, applicant's renewed petition is considered timely filed.

### DISCUSSION

As detailed in the decision mailed 31 October 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 and 3.

With the filing of the present renewed petition and supporting documentation, applicant has satisfied all of the concerns raised in the decision of 31 October 2006 and it is proper to grant applicant's renewed petition at this time.

**CONCLUSION**

For the reasons discussed above, applicant's renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 21 April 2004 under 35 U.S.C. 363, and will be given a date of **03 January 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known addresses of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

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



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

15 NOV 2005



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Edwin D. Schindler  
Five Hirsch Avenue  
P.O. Box 966  
Coram, NY 11727-0966

In re Application of	:	
McMILLAN, Vern	:	
Application No.: 10/553,768	:	DECISION ON PETITION
PCT No.: PCT/AU04/00542	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 28 April 2004	:	
Priority Date: 28 April 2003	:	
Attorney Docket No.: None	:	
For: TRAINING DEVICE FOR GOLFERS	:	

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

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

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

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

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



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

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**APR 27 2007**

**OFFICE OF PETITIONS**

In re Application of  
Nikolai Korpan et al.  
Application No. 10/553,782  
Filed: December 7, 2005  
Attorney Docket No. 66376-366-7

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. § 1.136(b), filed October 30, 2006.

The request is **APPROVED**.

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

The request was signed by Richard H. Tushin 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 Nikolai Korpan at the address indicated below.

There is no outstanding Office action at this time.

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

Terri Williams  
Petitions Examiner  
Office of Petitions

cc: Nikolai Korpan  
Kaasgrabengasse 52/3/5  
Vienna, Austria A-1190



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,793	10/18/2005	Xu He	279307USOPCT	6091

22850 7590 08/03/2009  
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER

EGWIM, KELECHI CHIDI

ART UNIT	PAPER NUMBER
1796	

NOTIFICATION DATE	DELIVERY MODE
08/03/2009	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):

patentdoCKET@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com



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Mailed : AUG 03 2009  
In re Application of  
Xu He, et al.  
Serial No. 10/553,793  
Filed: October 18, 2005  
For: Polymer Dispersion With A Colour Effect

:  
:  
: DECISION ON  
: PETITION  
:

This is a decision on the PETITION filed on May 21, 2009 UNDER 37 CFR 1.181 and 1.183 petitioning Examiner's withdrawal of claims 11-16, 21 and 25 from consideration in the office action mailed on April 16, 2009.

Applicants filed an amendment on December 19, 2008. The Examiner determined that newly amended claims 11-16, 21 and 25 were directed to an invention that was independent or distinct from the original invention. The Examiner stated that the present intermediate process and product to be deemed separately useful as coating film and the inventions were deemed to be patentably distinct because there is nothing of record to show them to be obvious variants (MPEP 806.05(j)).

Applicants assert that amended claim 11 is not independent and not distinct from original claim 11.

A review of the application indicates that application was filed under 37 CFR 371. The proper standard to apply should be unity of invention whereby an application should relate to only one invention or, if there is more than one invention, the inclusion of those inventions in one application is only permitted if all inventions are so linked as to form a single general inventive concept (PCT Rule 13.1).

With respect to a group of inventions claimed in an application, unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" is defined in PCT Rule 13.2 as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art. The determination is made on the contents of the claims as interpreted in light of the description and drawings (if any).

Whether or not any particular technical feature makes a "contribution" over the prior art, and therefore constitutes a "special technical feature," should be considered with respect to novelty and inventive step.

Although lack of unity of invention should certainly be raised in clear cases, it should neither be raised nor maintained on the basis of a narrow, literal or academic approach. There should be a broad, practical consideration of the degree of interdependence of the alternatives presented, in relation to the state of the art as revealed by the international search or, in accordance with PCT Article 33(6), by any additional document considered to be relevant. If the common matter of the independent claims is well known and the remaining subject matter of each claim differs from that of the others without there being any unifying novel inventive concept common to all, then clearly there is lack of unity of invention. If, on the other hand, there is a single general inventive concept that appears novel and involves inventive step, then there is unity of invention and an objection of lack of unity does not arise. For determining the action to be taken by the examiner between these two extremes, rigid rules cannot be given and each case should be considered on its merits, the benefit of any doubt being given to the applicant.

The Examiner did not do a determination of "unity of invention" for the newly amended claims before withdrawing the claims from consideration.

## **DECISION**

The petition is **GRANTED**.

The Examiner is directed to issue a new office action incorporating the claims that were withdrawn from consideration. If upon consideration, the Examiner feels that a lack of unity of invention exists with the newly amended claims, the Examiner should clearly demonstrate this in the new office action and may then consider withdrawing the claims from consideration.

/Gregory L Mills/

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

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



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,793	10/18/2005	Xu He	279307US0PCT	6091
22850	7590	12/17/2009	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314			EGWIM, KELECHI CHIDI	
			ART UNIT	PAPER NUMBER
			1796	
			NOTIFICATION DATE	DELIVERY MODE
			12/17/2009	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):

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bc

Mailed: 12/17/09

In re application of  
Xu He et al.  
Serial No. 10/553,793  
Filed: October 18, 2005  
For: POLYMER DISPERSION WITH A COLOUR  
EFFECT

DECISION ON  
PETITION

This is a decision on the both (1) the PETITION filed on November 20, 2009 UNDER 37 CFR 1.181 (and 1.183) petitioning the examiner's withdrawal of claims 11-16, 21 and 25 from consideration in the Office action mailed on October 23, 2009 and (2) the PETITION filed on November 24, 2009 UNDER 37 CFR 1.181 (and 1.183) requesting entry of the amendment filed on June 22, 2009.

On October 06, 2008, the examiner mailed a non-final Office action that rejected all of the claims of record, including claim 11 which clearly was directed to a process for manufacturing a multi-layered article. The applicants responded with an amendment on December 19, 2008. This amendment included only a minor change to claim 11 to maintain proper antecedent basis. On April 16, 2009, the examiner mailed a final Office action, which held claim 11 and those dependent upon claim 11, i.e. claims 12-16, 21 and 25, to be withdrawn as being drawn to an invention that is distinct from the original invention. The applicants petitioned the withdrawal of these claims in a Petition filed on May 21, 2009. On June 22, 2009, a response and amendment to the final Office action was filed, which resulted in the examiner's mailing of an advisory action on July 08, 2009. A decision on the May 21, 2009 Petition was mailed on August 03, 2009 which required the examiner to issue a new Office action due to the examiner failing to use the unity of invention standard for the withdrawal of claims 11-16, 21 and 25. On October 23, 2009, the examiner issued a new final Office action, which again held claims 11-16, 21 and 25 as being withdraw as being drawn to an invention that is distinct from the original invention. The second final Office action used the lack of unity of inventions standard to support this holding.

**DECISION**

37 CRF 1.145 states:

If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in § 1.143 and 1.144.

As set forth in the present Petition, the examiner's basis for the withdrawal of claims 11-16, 21 and 25 as being directed to an invention that is distinct from the original invention is erroneous, since original claim 11, which the examiner searched and examined in the non-final Office

action of October 06, 2008, clearly was drawn to a process for manufacturing a multi-layered article. Accordingly, the Petition for reconsideration of the withdrawal of claims 11-16, 21 and 25 is **GRANTED**.

As noted in the Petition filed on November 24, 2009, the record is unclear as to whether the amendment of June 22, 2009 was entered and considered by the examiner in the second final Office action mailed on October 23, 2009. Since the Petition Decision of August 03, 2009 effectively vacated the first final Office action, the response and amendment of June 22, 2009 should have been entered and fully considered by the examiner. Accordingly, the Petition for entry of the June 22, 2009 amendment is **GRANTED**.

The examiner is instructed to issue a new Office action that treats all pending claims on their merits. The amendment of June 22, 2009 should be entered and fully considered. No restriction of any of the current pending claims should be made. An Office action on the merits will follow in due course.

/Jacqueline M. Stone/

Jacqueline M. Stone, Director  
Technology Center 1700  
Chemical and Materials Engineering

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

27 JUN 2006



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JACOBSON HOLMAN PLLC  
400 Seventh Street, N.W., Suite 600  
Washington, DC 20004

In re Application of :  
MORRISON *et al* :  
U.S. Application No.: 10/553,805 :  
PCT No.: PCT/IB2004/050207 :  
Int. Filing Date: 08 March 2004 :  
Priority Date: 07 March 2003 :  
Attorney's Docket No.: P70884US0 :  
For: ILLUMINABLE RETRACTOR :

**DECISION**

Applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. §1.137(b)" filed with the national stage papers on 18 October 2005 is hereby **GRANTED** as follows:

The basic national fee, surcharge fee and petition fee have been paid. Applicants' statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A 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*  
James Thomson  
Attorney Advisor  
Office of PCT Legal Administration

Tel.: (571) 272-3302



UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 02 2008

In re Application of  
Blanc, et al.  
Application No. 10/553,806  
Filed: November 18, 2005  
Attorney Docket No. 125580

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 11, 2008 for failure to timely pay the issue and publication fees, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed April 10, 2008. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed August 6, 2008.

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

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

This application is being referred to Publishing Division for processing into a patent.

Alesia M. Brown  
Petitions Attorney  
Office of Petitions



2 2 FEB 2008

BAE Systems Information and Electronic  
Systems Integration Inc.  
65 Spit Brook Road  
P.O. Box 868 NHQ1-719  
Nashua, NH 03061-0868

In re Application of :  
KUPPENHEIMER, John :  
Application No.: 10/553,822 :  
PCT No.: PCT/US04/05812 :  
Int. Filing Date: 26 February 2004 :  
Priority Date: 24 April 2003 :  
Attorney Docket No.: 20030022 :  
For: SINGLET OR STABILIZING BTS BY :  
USING E1 TRUNK BOARD :  
DUPLEXING OF BSC :

## DECISION ON PETITION

This decision is issued in response to applicant's "Request to Correct Filing Receipt" filed 11 May 2007. Applicant requests a corrected filing receipt which indicates the first inventor as John D. Kuppenheimer and lists the filing (or 371) date as 20 October 2005. Additionally, this application is before the Office Of PCT Legal Administration for issues arising under 35 U.S.C. 371. No petition fee is required.

**BACKGROUND**

On 26 February 2004, applicants filed international application PCT/US04/05812 which claimed a priority date of 24 April 2003. The published international application identified two applicant/inventors for the United States: John Kuppenheimer and William F. Wing. The deadline for submission of the basic national fee was thirty months from the international filing date, i.e., 24 October 2005.

On 20 October 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 08 December 2006, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 20 December 2006, applicants submitted a declaration executed by inventor

Application No.: 10/553,822

William Wing and Robert Kuppenheimer, on behalf of inventor, John Kuppenheimer.

On 24 April 2007, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 20 December 2006. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 20 December 2006.

On 11 May 2007, applicants filed "Request to Correct Filing Receipt."

### DISCUSSION

#### A. *Issues Arising Under 35 U.S.C. 371*

A review of the application file and other United States Patent and Trademark Office records reveals that the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America have not been completed as indicated in the Notification of Acceptance mailed by the DO/EO/US on 24 April 2007. Specifically, the oath or declaration requirement under 35 U.S.C. 371(c)(4) for entry into the national stage in the United States of America has not been properly executed under 37 CFR 1.497 and 37 CFR 1.42. As such, the Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 24 April 2007, based as they were on applicant's purported submission of an acceptable declaration under 37 CFR 1.497, are appropriately vacated.

#### B. *Submission Under 37 CFR 1.42*

As noted above, the declaration was not executed by inventor John Kuppenheimer. Instead, the declaration was executed on his behalf by "Robert Kuppenheimer (executor)." Apparently, applicant John Kuppenheimer is deceased.

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 20 December 2006 was executed by William F. Wing and Robert Kuppenheimer as "executor" to the deceased inventor, John Kuppenheimer. The declaration is executed by the proper party under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

In addition, it is noted that revised 37 CFR 1.497(b)(2) states the following:

(2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or

Application No.: 10/553,822

declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63, the declaration must also provide residence, citizenship, and post office address for the legal representative (executor). The declaration filed on 20 December 2006 provides the residence, citizenship, and post office address for only one individual and it is unclear whether this information is for the executor or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

*C. Filing (or 371) Date*

Applicants are reminded that the actual filing date of the present application is considered to be the international filing date, 26 February 2004. The date in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage are completed (see MPEP §1895.01).

The name of the first inventor has been corrected to JOHN Kuppenheimer in the USPTO Palm database.

**CONCLUSION**

The submission under 37 CFR 1.42 is **DISMISSED** without prejudice. The Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 24 April 2007 are hereby **VACATED**.

Applicants have **TWO (2) MONTHS** from the mailing date of this Decision to submit a proper response under 37 CFR 1.42. Failure to provide a proper and timely response will result in abandonment. A proper response must include an acceptable declaration executed by either the legal representative of the deceased inventor or, if no legal representative has been appointed, all of the deceased inventor's heirs. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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





16 FEB 2007

22500  
BAE SYSTEMS INFORMATION AND ELECTRONIC SYSTEMS INTEGRATION INC.  
65 Spit Brook Road  
P.O. Box 868 NHQ1-719  
Nashua, NH 03061-0868

In re Application of :  
KYLER *et al* :  
U.S. Application No.: 10/553,825 :  
PCT No.: PCT/US04/12425 :  
Int. Filing Date: 21 April 2004 :  
Priority Date: 21 April 2003 :  
Attorney Docket No.: 20030081 :  
For: PROCESS FOR PREPARING HIGH :  
PURITY TNT :

**DECISION**

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 08 January 2007.

**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) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 08 January 2007, applicants filed a response which was accompanied by, *inter alia*, the subject petition, a declaration signed by two of the three named inventors; a statement by Daniel J. Long; a three-month extension and fee; the petition fee of \$200.00; a copy of a letter dated 21 September 2006; a copy of an email dated 21 September 2006 and authorization to charge any additional fee to Deposit Account No. 19-0130.

**DISCUSSION**

Applicants claim that they have been unable to locate Keith Kyler 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. Applicants completed items (1) and (3) with this petition.

**10/553,825**

Concerning item (1), the petition fee is now \$200.00. Petitioners submitted a \$130.00 petition fee. The \$70.00 difference has been charged to Deposit Account No. 19-0130 as authorized.

With regards to item (3), the last known address of co-inventor Keith Kyler is listed as:

1401 University Blvd., Apt D-3  
Kingsport, TN 37660

However, regarding item (2) of 37 CFR 1.47(a), section 409.03(d) of the MPEP discusses situations where an inventor cannot be reached and states, in part:

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made . . .

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

Here, applicants submitted a statement of facts by Mr. Long, an attorney representing the assignee. Mr. Long states that a letter sent to the last known address of the nonsigning inventor was returned as being undeliverable. Moreover, a co-inventor was contacted by email, but he did not know the whereabouts of Mr. Kyler. A copy of the email and a copy of the cover letter sent to the nonsigning inventor was included as evidence in the petition. Petitioners did not state that they made any other attempts to locate the nonsigning inventor and no other evidence was provided.

This evidence is insufficient to show that a "diligent effort" was made to locate the nonsigning inventor. Petitioners did not even attempt to locate Mr. Kyler using the internet or telephone. In addition, Mr. Kyler would likely belong to professional organizations. Moreover, a check with Human Resources and other co-workers should be done to see if anyone has any information on the whereabouts of Mr. Kyler.

10/553,825

Documentary evidence of the attempts made to locate the nonsigning inventor should be included with any renewed petition. For these reasons, item (2) of 37 CFR 1.47(a) is not yet satisfied.

Concerning item (4), the 37 CFR 1.47(a) applicant 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 as required. However, this declaration fails to comply with 37 CFR 1.497(a) and (b).

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 this reason, item (4) of 37 CFR 1.47(a) is also not satisfied.

#### CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

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



James Thomson  
Attorney Advisor  
Office of PCT Legal Administration

Tel.: (571) 272-3302



1 8 JAN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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Nashua, NH 03061-0868

In re Application of :  
KYLER *et al* :  
U.S. Application No.: 10/553,825 :  
PCT No.: PCT/US04/12425 :  
Int. Filing Date: 21 April 2004 :  
Priority Date: 21 April 2003 :  
Attorney Docket No.: 20030081 :  
For: PROCESS FOR PREPARING HIGH :  
PURITY TNT :

**DECISION**

This decision is in response to applicants' petition under 37 CFR 1.181 filed 04 December 2007. No fee is required.

**BACKGROUND**

On 16 February 2007, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 19 April 2007, applicant purportedly filed a response which contained, *inter alia*, an executed declaration by the nonsigning inventor, Dr. Keith S. Kyler. These papers were not located in the file.

On 14 November 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicants failed to respond to the petition decision mailed 16 February 2007 within the time period set.

On 04 December 2007, applicants filed the subject petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, copies of the documents purportedly filed 19 April 2007 and a stamped postcard receipt for the 19 April 2007 documents.

**DISCUSSION**

**Petition to Withdraw Holding of Abandonment**

A review of the subject application shows that the response purportedly filed in the above-captioned application on 19 April 2007 was not located in the file.

10/553,825

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants have provided a copy of the date-stamped postcard receipt for documents submitted 19 April 2007. The postcard receipt records that among the papers received in the USPTO included "2 pages signed declaration and power of attorney." The postcard receipt is stamped "Rec'd PCT/PTO 10 APR 2007" across its face. The U.S. application number and docket number are listed on the postcard receipt. Applicants provided a copy of these papers as required.

Accordingly, applicants have provided *prima facie* evidence that an executed two-page declaration was received by the USPTO on 19 April 2007.

#### **DECISION**

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

The Form PCT/DO/EO/909 mailed 14 November 2007 is hereby **VACATED**.

#### **Petition Under 37 CFR 1.47(a)**

In the response originally filed 19 April 2007, applicants submitted a declaration executed by the nonsigning inventor, Mr. Kyler. This declaration is in compliance with 37 CFR 1.497(a) and (b).

#### **CONCLUSION**

Since an executed declaration by the nonsigning inventor has been provided, the petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

However, the prior declaration filed 08 January 2007 was deemed to be a partial declaration in the decision dated 16 February 2007. Applicants were requested to provide the complete declaration signed by Andrew R. Wilson and Curtis Teague. In the response originally filed 19 April 2007, applicants did not address this defect.

Applicants must provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within **TWO MONTHS** of the date of mailing of this decision.

Failure to submit the required reply will result in the **ABANDONMENT** of this

**10/553,825**

application.

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

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Kyler, et al. US Appl. No.: 10/553,825  
Filed: 10/20/05 Docket No: 20030081  
PCT No.: PCT/US04/12425 Int. Filing Date: 4/21/04  
For: Process for Preparing High Purity TNT

CERTIFICATE OF MAILING 37 CFR 1.8: I certify that this correspondence is being deposited on the below date with the U.S. Postal Service with sufficient postage as FIRST CLASS MAIL addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, PO Box 1450, Alexandria, VA 22313-1450.

Date: 4.16.07

  
Maureen Miles

Dear Commissioner:

RESPONSE TO DECISION

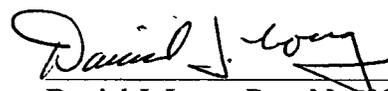
This is a response to the DECISION to Applicant's petition under 37 CFR 1.47 (a) filed 1/8/07, for the above-referenced matter. An executed Declaration for Patent Application and Power of Attorney is enclosed and is timely filed prior to the two month deadline.

Transmitted herewith is the following:

- 2 pages signed declaration and power of attorney,
- 3 page copy of DECISION,
- We understand that no additional petition fee is required, but the Office is hereby authorized to charge any deficiency or credit any overpayment in the fees relating to the attached submittal to Deposit Account 190130.

Please communicate, through our customer number 22500, with the undersigned attorney if there are any questions.

Respectfully submitted,

  
Daniel J. Long, Reg. No. 29,404

BAE Systems  
PO Box 868  
Nashua, NH 03061-0868  
Tel. No. (603) 885-2643  
Fax. No. (603) 885-2167

CASE NO. 20030081

DECLARATION FOR PATENT APPLICATION (37 CFR 1.63) AND POWER OF ATTORNEY

**DECLARATION:** As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name. I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**Process For Preparing High Purity TNT**

a specification of which [ ] is attached hereto OR [X] was filed on 21 APR 2004 as United States Application Number or PCT International Application Number US2004/012425. I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in Title 37 Code of Federal Regulations §1.56. I hereby claim foreign priority benefits under 35 U.S.C. §119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT International application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT International application having a filing date before that of the application on which priority is claimed.

<u>Prior Foreign Application(s)</u>			<u>Priority Claimed</u>	
(Number)	(Country)	(Date filed)	Yes	No

I hereby claim the benefit under 35 U.S.C. §119(e) of United States application(s) listed below.

<u>Provisional Application Number(s):</u> 60/464,286	<u>Filing Date(s):</u> 4/21/03
---	-----------------------------------

I hereby claim the benefit under 35 U.S.C. §120 of any United States application(s) or 365(c) of any PCT International application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

<u>Application Ser. No.</u>	<u>Filing Date</u>	<u>Status-Patented, Pending or Abandoned</u>
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**POWER OF ATTORNEY:** I hereby appoint as my attorney, with full powers of substitution and revocation, to prosecute this application and transact all business in the U.S. Patent and Trademark Office connected therewith:

**USPTO CUSTOMER NO. 22500**

**Daniel J. Long, Reg. No. 29,404**

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

All Inventor's are listed below:

- Solo or first Inventor's Name (first, middle if any, last) Keith S. Kyler
- Additional Inventor's Name (first, middle if any, last) Andrew R. Wilson
- Additional Inventor's Name (first, middle if any, last) Curtis Teague
- Additional Inventor's Name (first, middle if any, last) \_\_\_\_\_

## ALL INVENTORS

I have read the first page of this declaration for patent application, and I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Solo or first Inventor's Name (first, middle if any, last) Keith S. Kyler

Residence Address: 1401 University Blvd, Apt. D-3, Kingsport, TN 37660

Country US Citizenship US

Post Office Address: Same as residence

Signature:  Date: 4-7-07

Additional Inventor's Name (first, middle if any, last) Andrew R. Wilson

Residence Address: 1237 Sussex Drive, Kingsport, TN 37660

Country US Citizenship US

Post Office Address: Same as residence

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Additional Inventor's Name (first, middle if any, last) Curtis Teague

Residence Address: 1045 Allendale Circle, Kingsport, TN 37660

Country US Citizenship US

Post Office Address: Same as residence

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Additional Inventor's Name (first, middle if any, last) \_\_\_\_\_

Residence Address: \_\_\_\_\_

Country \_\_\_\_\_ Citizenship \_\_\_\_\_

Post Office Address: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



16 FEB 2007

22500  
BAE SYSTEMS INFORMATION AND ELECTRONIC SYSTEMS INTEGRATION INC.  
65 Spit Brook Road  
P.O. Box 868 NHQ1-719  
Nashua, NH 03061-0868

In re Application of :  
KYLER *et al* :  
U.S. Application No.: 10/553,825 :  
PCT No.: PCT/US04/12425 :  
Int. Filing Date: 21 April 2004 :  
Priority Date: 21 April 2003 :  
Attorney Docket No.: 20030081 :  
For: PROCESS FOR PREPARING HIGH :  
PURITY TNT :

DECISION

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 08 January 2007.

**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) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 08 January 2007, applicants filed a response which was accompanied by, *inter alia*, the subject petition, a declaration signed by two of the three named inventors; a statement by Daniel J. Long; a three-month extension and fee; the petition fee of \$200.00; a copy of a letter dated 21 September 2006; a copy of an email dated 21 September 2006 and authorization to charge any additional fee to Deposit Account No. 19-0130.

**DISCUSSION**

Applicants claim that they have been unable to locate Keith Kyler 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. Applicants completed items (1) and (3) with this petition.

**RECEIVED**

FEB 20 2007

PATENT DEPARTMENT

Concerning item (1), the petition fee is now \$200.00. Petitioners submitted a \$130.00 petition fee. The \$70.00 difference has been charged to Deposit Account No. 19-0130 as authorized.

With regards to item (3), the last known address of co-inventor Keith Kyler is listed as:

1401 University Blvd., Apt D-3  
Kingsport, TN 37660

However, regarding item (2) of 37 CFR 1.47(a), section 409.03(d) of the MPEP discusses situations where an inventor cannot be reached and states, in part:

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made . . .

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

Here, applicants submitted a statement of facts by Mr. Long, an attorney representing the assignee. Mr. Long states that a letter sent to the last known address of the nonsigning inventor was returned as being undeliverable. Moreover, a co-inventor was contacted by email, but he did not know the whereabouts of Mr. Kyler. A copy of the email and a copy of the cover letter sent to the nonsigning inventor was included as evidence in the petition. Petitioners did not state that they made any other attempts to locate the nonsigning inventor and no other evidence was provided.

This evidence is insufficient to show that a "diligent effort" was made to locate the nonsigning inventor. Petitioners did not even attempt to locate Mr. Kyler using the internet or telephone. In addition, Mr. Kyler would likely belong to professional organizations. Moreover, a check with Human Resources and other co-workers should be done to see if anyone has any information on the whereabouts of Mr. Kyler.

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Documentary evidence of the attempts made to locate the nonsigning inventor should be included with any renewed petition. For these reasons, item (2) of 37 CFR 1.47(a) is not yet satisfied.

Concerning item (4), the 37 CFR 1.47(a) applicant 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 as required. However, this declaration fails to comply with 37 CFR 1.497(a) and (b).

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 this reason, item (4) of 37 CFR 1.47(a) is also not satisfied.

### CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

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



James Thomson  
Attorney Advisor  
Office of PCT Legal Administration

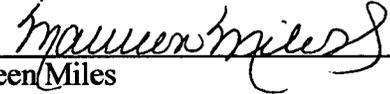
Tel.: (571) 272-3302

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Kyler, et al. US Appl. No.: 10/553,825  
 Filed: 10/20/05 Docket No: 20030081  
 PCT No.: PCT/US04/12425 Int. Filing Date: 4/21/04  
 For: Process for Preparing High Purity TNT

CERTIFICATE OF MAILING 37 CFR 1.8: I certify that this correspondence is being deposited on the below date with the U.S. Postal Service with sufficient postage as FIRST CLASS MAIL addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, PO Box 1450, Alexandria, VA 22313-1450.

Date: 4.16.07

  
 Maureen Miles

Dear Commissioner:

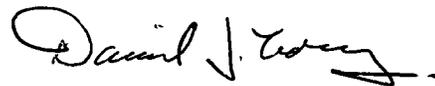
**PRELIMINARY AMENDMENT**

Please amend the applicant Keith Kyler's address to the following:

Indiana University of Pennsylvania  
 Weyandt Hall, 229A  
 Indiana, PA 15705

PAYMENT: All necessary fees relating to the attached submittal, if any, are intended to be included. However, the Office is hereby authorized to charge any deficiency or credit any overpayment in the fees to deposit account 190130.

Respectfully submitted,



Daniel J. Long, Reg. No. 29,404

Customer Number 22500  
 BAE Systems  
 PO Box 868  
 Nashua, NH 03061-0868  
 Tel. No. (603) 885-2643  
 Fax. No. (603) 885-2167



1 8 JAN 2008

PCT/US2004/012425 28.02.2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
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22500  
BAE SYSTEMS INFORMATION AND ELECTRONIC SYSTEMS INTEGRATION INC.  
65 Spit Brook Road  
P.O. Box 868 NHQ1-719  
Nashua, NH 03061-0868

RECEIVED

In re Application of  
KYLER *et al*  
U.S. Application No.: 10/553,825  
PCT No.: PCT/US04/12425  
Int. Filing Date: 21 April 2004  
Priority Date: 21 April 2003  
Attorney Docket No.: 20030081  
For: PROCESS FOR PREPARING HIGH  
PURITY TNT

JAN 22 2008

PATENT DEPARTMENT

DECISION

This decision is in response to applicants' petition under 37 CFR 1.181 filed 04 December 2007. No fee is required.

**BACKGROUND**

On 16 February 2007, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 19 April 2007, applicant purportedly filed a response which contained, *inter alia*, an executed declaration by the nonsigning inventor, Dr. Keith S. Kyler. These papers were not located in the file.

On 14 November 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicants failed to respond to the petition decision mailed 16 February 2007 within the time period set.

On 04 December 2007, applicants filed the subject petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, copies of the documents purportedly filed 19 April 2007 and a stamped postcard receipt for the 19 April 2007 documents.

**DISCUSSION**

**Petition to Withdraw Holding of Abandonment**

A review of the subject application shows that the response purportedly filed in the above-captioned application on 19 April 2007 was not located in the file.

10/553,825

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants have provided a copy of the date-stamped postcard receipt for documents submitted 19 April 2007. The postcard receipt records that among the papers received in the USPTO included "2 pages signed declaration and power of attorney." The postcard receipt is stamped "Rec'd PCT/PTO 10 APR 2007" across its face. The U.S. application number and docket number are listed on the postcard receipt. Applicants provided a copy of these papers as required.

Accordingly, applicants have provided *prima facie* evidence that an executed two-page declaration was received by the USPTO on 19 April 2007.

#### **DECISION**

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

The Form PCT/DO/EO/909 mailed 14 November 2007 is hereby **VACATED**.

#### **Petition Under 37 CFR 1.47(a)**

In the response originally filed 19 April 2007, applicants submitted a declaration executed by the nonsigning inventor, Mr. Kyler. This declaration is in compliance with 37 CFR 1.497(a) and (b).

#### **CONCLUSION**

Since an executed declaration by the nonsigning inventor has been provided, the petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

However, the prior declaration filed 08 January 2007 was deemed to be a partial declaration in the decision dated 16 February 2007. Applicants were requested to provide the complete declaration signed by Andrew R. Wilson and Curtis Teague. In the response originally filed 19 April 2007, applicants did not address this defect.

Applicants must provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within **TWO MONTHS** of the date of mailing of this decision.

Failure to submit the required reply will result in the **ABANDONMENT** of this

10/553,825

application.

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  
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22500  
BAE SYSTEMS INFORMATION AND ELECTRONIC SYSTEMS INTEGRATION INC.  
65 Spit Brook Road  
P.O. Box 868 NHQ1-719  
Nashua, NH 03061-0868

In re Application of :  
KYLER *et al* :  
U.S. Application No.: 10/553,825 :  
PCT No.: PCT/US04/12425 :  
Int. Filing Date: 21 April 2004 :  
Priority Date: 21 April 2003 :  
Attorney Docket No.: 20030081 :  
For: PROCESS FOR PREPARING HIGH :  
PURITY TNT :

**DECISION**

This decision is in response to the papers filed 03 June 2009 which are treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

**BACKGROUND**

On 18 January 2008, a decision granting applicants' petition under 37 CFR 1.47(a) was mailed. However, applicants were requested to provide complete copies of the declarations executed by Andrew R. Wilson and Curtis Teague. Applicants were given two months to respond.

On 28 February 2008, applicant purportedly filed a response containing the declarations signed by Andrew R. Wilson and Curtis Teague.

On 20 May 2009, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicants failed to respond to the petition decision mailed 18 January 2008.

On 03 June 2009, applicants filed the subject petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, copies of the documents purportedly filed 28 February 2009 and a stamped postcard receipt for the 28 February 2009 documents.

**DISCUSSION**

The response purportedly filed on 28 February 2008 was not located in the above-captioned application. However, these papers have been located in the underlying international application, PCT/US04/12425.

10/553,825

A review of these papers show that applicants identified the proper U.S. application number and attorney docket number on the cover page. Accordingly, the Office should have placed applicants' response in the subject application.

Applicants' response filed 28 February 2008 has been moved to the subject application. Applicants provide a complete copy of the declarations executed by joint inventors Mr. Wilson and Mr. Teague as required.

The declarations are in compliance with 37 CFR 1.497(a) and (b).

**DECISION**

Applicants' petition to withdraw the holding of abandonment is **GRANTED**.

The Form PCT/DO/EO/909 mailed 20 May 2009 is hereby **VACATED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 21 April 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 28 February 2008.

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

  
James Thomson

Attorney Advisor  
Office of PCT Legal Administration

Tel.: (571) 272-3302

**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

Paper No.: \_\_\_\_\_

DATE : 03-25-09

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/553845 Patent No.: 7462540

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

**FOR IFW FILES:**

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

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

**FOR PAPER FILES:**

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

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

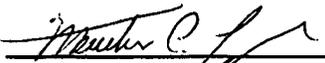
  
\_\_\_\_\_  
Certificates of Correction Branch  
703-308-9390 ext. 123

**Thank You For Your Assistance**

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

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

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_

  
\_\_\_\_\_  
SPE 2813  
Art Unit



30 DEC 2005

COOPER & DUNHAM, LLP  
1185 AVENUE OF THE AMERICAS  
NEW YORK NY 10036

In re Application of LUM et al.  
Application No.: 10/553,853  
PCT No.: PCT/US03/12679  
Int. Filing: 23 April 2003  
Priority Date: 23 April 2002  
Attorney Docket No.: 65532-A-PCT-US/JPW/JW  
For: COMPOSITIONS AND METHODS FOR  
STEM CELL DELIVERY

DECISION ON  
PETITION UNDER  
37 CFR 1.137(b)

This is in response to the petition to revive under 37 CFR 1.137(b), filed in the United States Patent and Trademark Office on 19 October 2005 in the above-identified application.

**BACKGROUND**

On 23 April 2003, applicants filed international application No. PCT/US03/12679 which claimed a priority date of 23 April 2002, and which designated the United States. The international application became abandoned for failure to enter the U.S. national stage by the thirty month deadline or at midnight on 23 October 2004.

Almost a year later, on 19 October 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*: the \$150 basic national fee and a petition to revive under 37 CFR 1.137(b) along with the requisite petition fee of \$750 and an explanation of the delay.

**DISCUSSION**

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the requisite petition fee; (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 unintentional; and (4) any terminal disclaimer (and fee as set forth in 1.20(d)) required pursuant to 37 CFR 1.137(c). Applicant has satisfied items (1) and (2). Item (4) is not required.

With regard to Item (3), Petitioner states that Patricia O'Connell, Vice President and General Counsel of applicant Roger Williams Hospital was advised of the thirty (30) month deadline of 23 October 2004 as late as 07 October 2004 by attorney John P. White of Cooper & Dunham. Petitioner explains that through oversight, Ms. O'Connell did not instruct the law firm to enter the national stage by the thirty month deadline. Petitioner further states that "Prior to October 5, 2005", Ms. O'Connell communicated on several occasions with attorney of record Alan J. Morrison, regarding applicant's "continued interest in entering the national stage in the United States for the subject application and whether doing so would be possible". Petitioner states that "on October 5, 2005, Ms. O'Connell first informed Mr. Morrison that her not instructing Cooper & Dunham LLP to enter the national stage in the United States was due to her

own oversight and was thus unintentional." The fact that communications between applicant and counsel were held regarding the continued interest in pursuing national stage prior to October 5, 2004 without filing the national stage papers earlier raises the question as to whether the delay was unintentional. Petitioner should provide a statement explaining the communications between counsel and applicant "prior to October 5, 2005" showing that the delay in filing the national stage application was unintentional.

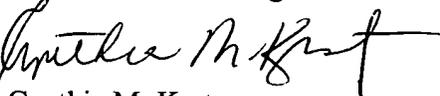
It is appropriate for the Office to require further information as to how the delay in discovering the abandoned status occurred despite the exercise of due care and diligence on the part of applicant and applicant's representatives. Petitioner should explained how the delay in filing the petition occurred despite the exercise of due care and diligence on the part of applicant and his chosen representative. The USPTO cannot conclude that the entire 12 month delay in filing the petition to revive was unintentional. Accordingly, the granting of the petition under 37 CFR 1.137(b) for revival based on unintentional delay would not be proper at this time.

### CONCLUSION

Therefore, the petition under 37 CFR 1.137(b) is **DISMISSED** and the application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137 (b)."

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



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

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

#5



11 AUG 2006

COOPER & DUNHAM, LLP  
1185 AVENUE OF THE AMERICAS  
NEW YORK NY 10036

In re Application of LUM et al.  
Application No.: 10/553,853  
PCT No.: PCT/US03/12679  
Int. Filing: 23 April 2003  
Priority Date: 23 April 2002  
Attorney Docket No.: 65532-A-PCT-US/JPW/JW  
For: COMPOSITIONS AND METHODS FOR  
STEM CELL DELIVERY

DECISION ON  
PETITION UNDER  
37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 28 February 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  
Attorney Advisor  
PCT Legal Office  
Office of PCT Legal Administration

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

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

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

In re Application of:	:	
BJORCK, Lars, et al.	:	
U.S. Application No.: 10/553,904	:	DECISION ON PETITION TO
PCT No.: PCT/EP2004/004429	:	WITHDRAW HOLDING OF
International Filing Date: 23 April 2004	:	ABANDONMENT
Priority Date: 23 April 2003	:	(37 CFR 1.181)
Atty Docket No.: 053694-0131	:	
For: METHOD FOR IDENTIFYING AN	:	
ANTI-STREPTOCOCCAL AGENT	:	
AND ITS USE FOR TREATING	:	
STREPTOCOCCAL INFECTIONS	:	

This decision is issued in response to the "Petition To Revive Unavoidably Abandoned Application Under 37 CFR 1.137(a)" filed 30 January 2007, treated herein as a petition under 37 CFR 1.181 to withdraw the holding of abandonment based on applicants' timely response to the Notification Of Defective Response (Form PCT/DO/EO/916) mailed 20 November 2006. No petition fee is required at this time.<sup>1</sup>

### **BACKGROUND**

On 23 April 2004, applicants filed international application PCT/EP2004/004429. The international application claimed a priority date of 23 April 2003, and it designated the United States. On 04 November 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., 23 October 2005.

On 21 October 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 29 March 2006, applicants filed executed declaration documents and a supplemental application data sheet (ADS).

On 27 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification To Comply With Requirements For Patent Applications Containing Nucleotide

<sup>1</sup> The \$500 petition fee filed with the present petition will be refunded to Deposit Account 19-0741.

And/Or Amino Acid Sequence Disclosures” (Form PCT/DO/EO/922) (hereinafter “Notification To Comply”) requiring submission of specified sequence listing materials.

On 17 July 2006, applicants filed a revised declaration executed by the inventors.

On 20 November 2006, the DO/EO/US mailed a “Notification Of Defective Response” (Form PCT/DO/EO/916) acknowledging applicant’s 29 March 2006 submission and indicating that the sequence listing requirements set forth in the Notification To Comply had not yet been submitted.

On 30 November 2006, the DO/EO/US mailed a “Notification Of Abandonment” (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a response to the Notification To Comply mailed 27 April 2006.

On 20 December 2006, applicants filed a response to the Notification Of Defective Response including sequence listing materials and the petition considered herein. The petition asserts that the holding of abandonment is improper because applicants filed a timely response to the Notification Of Defective Response mailed 20 November 2006, and/or because applicants never received the Notification To Comply mailed 27 April 2006.

### DISCUSSION

Applicants argue that the 20 December 2006 submission of sequence listing materials was a timely response to the Notification Of Defective Response mailed 20 November 2006 and that abandonment of the application is therefore improper.

A review of the application file confirms that, on 20 December 2006, applicants filed a “Response To Notification Of Defective Response” that included the sequence listing materials required by the Notification To Comply mailed 27 April 2006 and the Notification Of Defective Response mailed 20 November 2006, including a Computer Readable Form (CRF) of the sequence listing. This response was timely filed before the expiration of the one-month deadline set forth in the Notification Of Defective Response.

The Notification Of Abandonment (Form PCT/DO/EO/909) mailed 30 November 2006, based as it was on applicants’ failure to timely file the required sequence listing materials, is properly vacated.

### CONCLUSION

Based on applicants’ timely response to the Notification Of Defective Response (Form PCT/DO/EO/916) mailed 20 November 2006, applicants’ petition for withdrawal of the holding of abandonment under 37 CFR 1.181 is **GRANTED**.

The Notification Of Abandonment (Form PCT/DO/EO/909) mailed 30 November 2006 is hereby **VACATED**.

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.



Richard M. Ross  
Attorney Advisor  
Office of PCT Legal Administration  
Telephone: (571) 272-3296  
Facsimile: (571) 273-0419

03/15/2007 SBASHEIR 00000003 190741 10553904  
Sale Ref: 00000003 DAW: 190741 10553904  
01 FC:1452 500.00 DA



09 APR 2008

Christian D. Abel  
Onsagers AS  
Postboks 6963 St. Olavs Plass  
Norway N-013-0  
Norway

In re Application of	:	
DYRLI et al.	:	
Application No.: 10/553,912	:	DECISION
PCT No.: PCT/NO04/00008	:	
Int. Filing Date: 14 January 2004	:	
Priority Date: 14 January 2003	:	
Attorney Docket No.: P18227USPC	:	
For: METHOD FOR ENCAPSULATION OF	:	
LIQUID CRYSTALS WITH A NARROW	:	
CAPSULE SIZE RANGE	:	

This decision is issued in response to applicants' "Request to Correct Error in Published Application and For Corrected Filing Receipt" filed 27 February 2007.

Applicants state in the present request that, "[t]he correct filing date of PCT/NO04/00008 is 14 January 2005 [sic] as was indicated in transmittal form PTO-1390." Due to an Office error, the international filing date for PCT/NO04/00008 was entered into the PALM database as 14 July 2005. However, a review of the published international application reveals that the international filing date for PCT/NO04/00008 is 14 January 2004. Therefore, applicants' request for a corrected filing receipt is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a Notification of Acceptance of Application (Form PCT/DO/EO/903) and Official Filing Receipt which properly identifies the international filing date for PCT/NO04/00008 as 14 January 2004.

Thereafter, the application is being referred to the Office of Publications.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
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ALEXANDRIA, VA 22313-1450  
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POSTBOKS 6963 ST. OLAVS PLASS  
NORWAY, N-0130  
NORWAY

**COPY MAILED**

**JUL 30 2008**

**OFFICE OF PETITIONS**

Applicant: Dyrli et al.  
Appl. No.: 10/553,912  
International Filing Date: January 14, 2004  
Title: METHOD FOR ENCAPSULATION OF LIQUID CRYSTALS WITH A NARROW  
CAPSULE SIZE RANGE  
Attorney Docket No.: P18227USPC  
Pub. No.: US 2007/0023732 A1  
Pub. Date: February 1, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 27, 2007, for the above-identified application.

Applicant requests that the application be republished because the filing date of the PCT application is incorrectly identified as July 14, 2005 instead of January 14, 2005.

The request is DISMISSED as moot.

Since the application has already issued as U.S. Patent No. 7,397,530 on July 8, 2008, the request is deemed moot.

Applicant is reminded that since different matters may be considered by different sections of the office that each distinct matter must be contained in a separate paper to avoid confusion and delays in answering papers dealing with different subjects. 37 CFR 1.4(c).

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



25 APR 2007

Rick Yeager  
10805 Mellow Ln  
Austin TX 78759

In re Application of	:	
SOLOW, Howard J., et al.	:	
Application No.: 10/553,930	:	
PCT No.: PCT/US03/12812	:	
Int. Filing Date: 23 April 2003	:	DECISION
Priority Date: None	:	
Docket No.: PEAK 03	:	
For: FOLDABLE TRANSPORTABLE	:	
MULTIPLE FUNCTION PILATES	:	
EXERCISE APPARATUS AND METHOD	:	

This decision is in response to "Response to Notification of Missing Requirements," filed in the above-captioned application on 21 November 2006.

On 07 September 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 21 November 2006, applicants submitted a declaration of the inventors comprised of a 2 page declaration and 3 pages of supplemental sheets. Supplemental sheets 1 of 3 and 2 of 3 bear two of the same executions, but the page numbers are different. The pages were clearly altered after they were executed by the inventors. Applicants are reminded that it is improper for anyone, including counsel, to alter, rewrite or partly fill in any part of the application, including the oath or declaration, after execution of the oath or declaration by the application. MPEP 605.04(a). See 37 CFR 1.52. Further, while it is acceptable for inventors to execute separate copies of the oath or declaration, the complete copy of the oath or declaration, as executed by the inventor, must be submitted to the Office.

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time are available under 37 CFR 1.136(a).

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

Erin P. Thomson  
Attorney Advisor  
PCT Legal Administration

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

2 5 APR 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

Rick Yeager  
10805 Mellow Ln  
Austin, TX 78759

In re Application of :  
SOLOW, Howard J., et al. :  
Application No.: 10/553,930 :  
PCT No.: PCT/US03/12812 :  
Int. Filing Date: 23 April 2003 :  
Priority Date: None :  
Docket No.: PEAK 03 :  
For: FOLDABLE TRANSPORTABLE :  
MULTIPLE FUNCTION PILATES :  
EXERCISE APPARATUS AND :  
METHOD :

DECISION

This decision is in response to applicant's Petition Under 37 CFR 1.182, filed in the above-captioned application on 25 March 2008.

**BACKGROUND**

On 25 April 2007, the Office mailed Decision, indicating that the declaration of the inventors was defective and that a new oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 20 June 2007, applicants submitted a declaration of the inventors, but directed the submission to application no. 10/533,930.

On 25 March 2008, applicants filed this petition under 37 CFR 1.182 to relocate the 20 June 2007 submission.

**DISCUSSION**

The declaration and submission for this application was located in 10/533,930 and has been relocated to this application. Applicants have paid the fee for a Petition Under 37 CFR 1.182 to relocate the papers.

However, the declaration submitted by applicants is not in compliance with 37 CFR 1.497(a)-(b). The originally submitted declaration had been altered after execution by the inventors and further had been pieced together from separately executed declarations. The replacement declaration lists only one inventor, while the international application lists five inventors. A new oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

**CONCLUSION**

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

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time are available under 37 CFR 1.136(a).

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

/Erin P. Thomson/

Erin P. Thomson  
Attorney Advisor  
PCT Legal Administration

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

08 SEP 2006



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

In re Application of	:	
SONGER, Matthew N., et al.	:	
Application No.: 10/553,940	:	DECISION
PCT No.: PCT/US04/03205	:	
Int. Filing Date: 05 February 2004	:	ON PETITION UNDER
Priority Date: 05 February 2003	:	
Docket No.: 82271	:	37 CFR 1.137(b)
For: BONE PLATE SYSTEM	:	

Applicants' "Petition Under 37 C.F.R. §1.137(b) to Revive an Unintentionally Abandoned Application," filed in the above-captioned application on 21 October 2005 is **GRANTED**.

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

A signed oath or declaration has not yet been submitted. The fee for late filing of the search fee, examination fee or oath or declaration will be charged to deposit account no. 06-1135, as authorized.

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

*Erin P. Thomson*

Erin P. Thomson  
Attorney Advisor  
PCT Legal Administration

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

09/08/2006 SBASHEIR 00000005 061135 10553940  
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NIXON PEABODY, LLP  
401 9TH STREET, NW  
SUITE 900  
WASHINGTON, DC 20004-2128

Mail Date: 04/27/2010

**Applicant** : Atsushi Tendo : DECISION ON REQUEST FOR  
**Patent Number** : 7585988 : RECALCULATION of PATENT  
**Issue Date** : 09/08/2009 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/553,946 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 10/21/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

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

The patent term adjustment has been determined to be **561** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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BANNER & WITCOFF, LTD.  
1100 13th STREET, N.W.  
SUITE 1200  
WASHINGTON, DC 20005-4051

Mail Date: 04/21/2010

<b>Applicant</b>	: Xavier Barrilalonso	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7632855	: RECALCULATION of PATENT
<b>Issue Date</b>	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/553,955	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 08/10/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **248** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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

Mail Date: 06/11/2010

<b>Applicant</b>	: Yuuji Saiki	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7651643	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/553,958	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 10/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **737** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



05 JUL 2006

Benoit Castel  
Young & Thompson  
745 South 23rd Street  
Arlington, VA 22202

In re Application of	:	
KARLSSON et al.	:	
Application No.: 10/553,962	:	DECISION ON PETITION
PCT No.: PCT/SE03/02063	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 22 December 2003	:	
Priority Date: 20 December 2002	:	
Attorney Docket No.: 1515-1040	:	
For: METHOD AND ARRANGEMENT FOR	:	
THE VISUALIZATION OF DATA	:	

The petition to revive under 37 CFR 1.137(b) filed 19 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 forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration is required.

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

05 MAY 2006

43



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Benoît Castel  
YOUNG & THOMPSON  
45 South 23<sup>rd</sup> Street  
Arlington, Virginia 22202

In re Application of :  
Jean-Paul PETILLON :  
Application No.: 10/553,965 :  
PCT No.: PCT/FR04/00940 :  
Int. Filing Date: 16 April 2004 :  
Priority Date: 16 April 2003 :  
Attorney Docket No.: 0595-1050 :  
For: SECURE INTERACTIVE 3D :  
NAVIGATION METHOD AND DEVICE :

DECISION  
ON PETITION  
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 19 October 2005 in the above-captioned application is hereby **GRANTED** as follows:

On 16 April 2004, applicant filed international application PCT/FR04/00940, which claimed priority of an earlier French application filed 16 April 2003. The application became abandoned as to the national stage in the United States because the basic national fee was not paid to the USPTO prior to the 30 months statutory time period, which expired at midnight on Monday 17 October 2005.

On 19 October 2005, applicant filed the present petition, requesting revival of the international application under the provisions of 37 CFR 1.137(b) along with the appropriate petition fee as required by 37 CFR 1.17(m) for a large entity.

A review of the application papers filed 19 October 2005 reveals that all of the requirements of 37 CFR 1.137(b) for revival have been submitted. 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 under 37 CFR 1.137(b)(3) at the time of filing this petition.

A review of the declaration of the inventor filed with the petition reveals that it is in compliance with 37 CFR 1.497.

Applicant's claim for priority is acknowledged. The application has an international filing date of **16 April 2004** under 35 U.S.C. 363 and a date of **19 October 2005** under 35 U.S.C. 371.

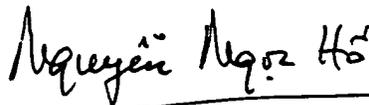
The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application is being forwarded to the United States Designated/Elected Office for further processing.



Leonard E. Smith  
PCT Legal Examiner  
PCT Legal Office

NNH/LES:hn



Nguyễn Ngọc-Hô  
Paralegal Specialist  
PCT Legal Office

Tel: (571) 272-3290



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

Mail Date: 04/27/2010

Applicant : Takao Okajima : DECISION ON REQUEST FOR  
Patent Number : 7640938 : RECALCULATION of PATENT  
Issue Date : 01/05/2010 : TERM ADJUSTMENT IN VIEW  
Application No : 10/553,988 : 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 **804** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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

02 APR 2007

In re Application of	:	
Melchi et al.	:	
Application No.: 10/553,996	:	DECISION
PCT No.: PCT/IT04/00217	:	
Int. Filing Date: 15 April 2004	:	ON
Priority Date: 22 April 2003	:	
Attorney Docket No.: 2507-1074	:	PETITION
For: Automatic Detection Of Skin Lesions	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 02 March 2007.

**BACKGROUND**

This international application was filed on 15 April 2004, claimed an earlier priority date of 22 April 2003, and designated the U.S. The International Bureau transmitted 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 (since 22 October 2005 was a Saturday). Applicants filed *inter alia* the basic national fee on 21 October 2005.

On 02 October 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).

**DISCUSSION**

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

Regarding **requirement (1)**, the \$200.00 petition fee was paid on 02 March 2007.

Regarding **requirement (2)**, petitioner urges that the absence on the declaration of the signature of joint inventor Carmelo Francesco Melchi be excused because he allegedly "has refused to execute the application papers." 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 evidentiary documentation establishes that Mr. Melchi has refused to execute the application within the meaning of 37 CFR 1.47(a). Therefore, requirement (2) has been satisfied.

Regarding **requirement (3)**, the petition includes a statement of Mr. Melchi's last known address. Accordingly, requirement (3) has been satisfied.

Regarding **requirement (4)**, the declaration filed on 02 March 2007 has been signed by joint inventor Oscar Bellerino on behalf of himself and non-signing joint inventor Carmelo Francesco Melchi. It is observed that the ordering of names appearing on the declaration document reflects the ordering appearing in the published international application, but the commas have been omitted. However, it is clear from inspection of the declaration that the inventors' surnames are MELCHI and BELLERINO, as these names have been capitalized in full. This declaration is acceptable for purposes of compliance with 37 CFR 1.497(a) and (b). As such, requirement (4) has been satisfied.

**DECISION**

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

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

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

The application is being returned to the National Stage Processing Branch for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **02 March 2007**.



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



02 APR 2007

Carmelo Francesco MELCHI  
Via della Balduina, 120  
I-00136 ROMA  
ITALY

In re Application of  
Melchi et al.  
Application No.: 10/553,996  
PCT No.: PCT/IT04/00217  
Int. Filing Date: 15 April 2004  
Priority Date: 22 April 2003  
For: Automatic Detection Of Skin Lesions

Dear Dr. Melchi:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3283. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

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

George Dombroske  
PCT Legal Examiner  
Office of PCT Legal Administration  
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YOUNG & THOMPSON  
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ARLINGTON, VA 22202  
USA



## OFFICIAL GAZETTE NOTICE

### 37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of a joint inventor. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Dr. Carmelo Francesco MELCHI) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/IT04/00217 and was filed on April 15, 2004 in the names of Carmelo Francesco MELCHI and Oscar BELLERINO for the invention entitled AUTOMATIC DETECTION OF SKIN LESIONS. The national stage application number is 10/553,996 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of March 2, 2007.



20 JUL 2006

Reginald Finn  
Albihns Stockholm AB  
Linnegatan 2  
P.O. Box 5581  
114 85 Stockholm  
SWEDEN

In re Application of :  
NORDENFELT, et al. :  
U.S. Application No.: 10/554,027 :  
PCT No.: PCT/SE04/00607 : COMMUNICATION  
Int. Filing Date: 21 April 2004 :  
Priority Date: 27 April 2003 :  
Attorney Docket No.: 69521-81893 :  
For: METHOD AND APPARATUS FOR ABSOLUTE :  
OPTICAL ENCODERS WITH REDUCED :  
SENSITIVITY TO SCALE OR DISK MOUNTING: :  
ERRORS :

This decision is in response to counsel's "Request For Withdrawal as Attorney or Agent And Change of Correspondence Address" filed 29 June 2006 in the United States Patent and Trademark Office (USPTO).

**BACKGROUND**

On 21 April 2004, applicant filed the above-captioned international application, which claimed a priority date of 27 April 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 04 November 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee expired at midnight on 27 October 2005.

On 21 October 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, payment of the U.S. basic national fee, an executed declaration of the inventors, a preliminary amendment, an application data sheet and an information disclosure sheet .

On 29 June 2006, Olivia Tolan filed the present request for permission to withdraw as attorney of record.

**DISCUSSION**

The criteria for effecting a proper withdrawal of attorney are spelled out in Section 402.06

of the Manual of Patent Examining Procedure (M.P.E.P.) which reads, in part, as follows:

In the event that a notice of withdrawal is filed by an attorney or agent of record... appropriate procedure will be followed pertaining to the withdrawal. The withdrawal is effective when approved rather than when received. To expedite the handling of requests for permission to withdraw as attorney, under 37 CFR 1.36, the request should be submitted in triplicate (original and two copies) and indicate thereon the present mailing addresses of the attorney who is withdrawing and of the applicant. The examining group number should also appear on all such requests. Because the Office does not recognize law firms, each attorney of record must sign the notice of withdrawal, or the notice of withdrawal must contain a clear indication of one attorney signing on behalf of another. The Commissioner of Patents and Trademarks usually requires that there be at least thirty days between approval of the withdrawal and the latter of the expiration date of a time response period or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a). This is so that the applicant will have sufficient time to obtain other representation or take other action. Attorney Olivia Tolan has provided a clear indication that the request is being made on her own behalf as she is leaving the firm. Reginald Finn and Timothy Platt remain attorneys of record and the correspondence address remains the same. Since all of the criteria delineated in Section 402.06 of the M.P.E.P. have been complied with the request to withdraw the Power of Attorney/Agent is **GRANTED**.

#### CONCLUSION

In view of the above discussion, counsel's Request for Withdrawal is GRANTED.

A review of the application file finds that applicant has satisfied all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States. This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision



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



UNITED STATES PATENT AND TRADEMARK OFFICE

#3

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13 JUL 2006

Peter C. Lauro  
EDWARDS & ANGELL, LLP  
P.O. Box 55874  
Boston, MA 02205

In re Application of:	:	
ADORINI, Lucian, et al.	:	DECISION ON PETITION UNDER
U.S. App. No.: 10/554,038	:	37 CFR 1.182
Filing Date: October 19, 2005	:	
Attorney Docket No.: 59756DIV1(49949)	:	
For: GEMINI VITAMIN D3 COMPOUNDS	:	
AND METHODS OF USE THEREOF	:	

This decision is issued in response to applicants' "Petition To Treat Application As Filed Under 35 U.S.C. 111(a) Pursuant To 37 CFR 1.182" filed April 25, 2006. Deposit Account No. 04-1105 will be charged the required petition fee.

**BACKGROUND**

On April 30, 2004, applicants filed international application PCT/US04/13703. The application claimed a priority date of April 30, 2003 and designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., October 30, 2005.

On October 19, 2005, applicants filed a Transmittal Letter requesting entry into the national stage in the United States for PCT/US04/13703. This submission, which included, among other materials, payment of the basic national fee, an Application Data Sheet (ADS), and a preliminary amendment, was assigned U.S. application number 10/553,854 and entered into the USPTO system as the national stage of PCT/US04/13703 filed under 35 U.S.C. 371. The attorney docket number was 59756DIV2(49949) (hereinafter "DIV2").

Also on October 19, 2005, applicants filed a second Transmittal Letter requesting entry into the national stage in the United States for PCT/US04/13703. This submission, which included, among other materials, payment of the basic national fee, an ADS, and a preliminary amendment, was assigned U.S. application number 10/554,038. The attorney docket number was 59756DIV1(49949) (hereinafter "DIV1").

Because an international application may have only one U.S. national stage under 35 U.S.C. 371, applicants were contacted by the USPTO and informed that a petition under 37 CFR 1.182 was required if applicants wanted one of the sets of papers filed on October 19, 2005 to be treated as a separate application filed under 35 U.S.C. 111(a).

On April 25 2006, applicants filed the "Petition To Treat Application As Filed Under 35 U.S.C. 111(a) Pursuant To 37 CFR 1.182" considered herein. The petition requests that the materials assigned U.S. application number 10/554,038 (the DIV1 docket number) be treated as a continuation of international application PCT/US04/13703 filed under 35 U.S.C. 111(a), with a filing date of October 19, 2003. The petition also requests that the materials assigned U.S. application number 10/553,854 (the DIV2 docket number) be treated as the U.S. national stage of PCT/US04/13703 filed under 35 U.S.C. 371.

### DISCUSSION

As is evident from the above recited facts, two sets of papers to enter the national stage under 35 U.S.C. 371 have been submitted for international application number PCT/US04/13703 (U.S. application numbers 10/553,854 and 10/554,038). 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 in the U.S. was improper.

Pursuant to applicants' request in the present petition, the materials assigned U.S. application number 10/554,038 (the DIV1 docket number) will be treated as a filing under 35 U.S.C. 111(a), with a filing date of October 19, 2005. The present petition includes a supplemental ADS that contains the continuity reference to the international application required under 37 CFR 1.78. Pursuant to 37 CFR 1.8(b), the continuity reference is considered timely under 37 CFR 1.78(a)(2)(ii); the application can therefore properly be treated as a continuation of the international application without the need for a petition under 37 CFR 1.78(a)(3).

As also requested in the present petition, the materials assigned U.S. application number 10/553,854 (the DIV2 docket number) will be treated as the U.S. national stage of PCT/US04/13703 filed under 35 U.S.C. 371.

### CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED** to the extent that the materials assigned U.S. application number 10/554,038 (the DIV1 docket number) will be treated as a continuation of PCT/US04/13703 filed under 35 U.S.C. 111(a) filed October 19, 2005.

Application number 10/553,854 will continue to be processed as the national stage of PCT/US04/13703 filed under 35 U.S.C. 371.

Application number 10/554,038 is being referred to the Office Of Initial Patent Examination for processing as an application filed under 35 U.S.C. 111(a).



Richard M. Ross  
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24 OCT 2007



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Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Henry C. Query Jr  
504 S Pierce Avenue  
Wheaton IL 60187

In re Application of	:	
LE DEVEHAT, Renaud	:	
Application No.: 10/554,040	:	DECISION
PCT No.: PCT/EP2004/004527	:	
Int. Filing Date: 20 April 2004	:	ON PETITION UNDER
Priority Date: 23 April 2003	:	
Docket No.: FMCE-P138	:	37 CFR 1.10(e)
For: DISCHARGE ARM ASSEMBLY	:	
WITH GUIDING CABLE	:	

This decision is in response to applicant's Petition Under 37 CFR 1.10(e), filed in the United States Patent and Trademark Office on 30 April 2007.

### **BACKGROUND**

On 20 April 2004, applicant filed international application PCT/EP2004/004527, claiming a priority date of 23 April 2003. A copy of the international application was transmitted to the Office by the International Bureau on 04 November 2004. The deadline for entry into the national stage in the United States was 23 October 2005.

On 21 October 2005, applicant filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 24 July 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the search fee, examination fee or oath or declaration were required.

On 02 April 2007, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that a response had not been received to the Notification of Missing Requirements and that the application was now abandoned.

On 30 April 2007, applicant filed a petition under 37 CFR 1.10(e).

### **DISCUSSION**

37 CFR 1.10(e) applies only in those situations in which the correspondence at issue was lost *in toto* (i.e., the entire correspondence was not delivered to the Office). MPEP 513. Here, applicant claims to have filed the \$130 late filing fee along with the declaration. The Office received the late filing fee. As such, this is a dispute over the content of the submission.

Where the records of the Office (e.g., the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. *Id.*

### CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.10(e) 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 under 37 CFR 1.136(a) are available. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(e)."

Any further correspondence with respect to this matter may be filed electronically 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  
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PCT Legal Administration

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29 JAN 2008



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Henry C. Query Jr  
504 S Pierce Avenue  
Wheaton IL 60187

In re Application of	:	
LE DEVEHAT, Renaud	:	
Application No.: 10/554,040	:	DECISION
PCT No.: PCT/EP2004/004527	:	
Int. Filing Date: 20 April 2004	:	ON PETITION UNDER
Priority Date: 23 April 2003	:	
Docket No.: FMCE-P138	:	37 CFR 1.137(b)
For: DISCHARGE ARM ASSEMBLY	:	
WITH GUIDING CABLE	:	

Applicant's Petition Under 37 CFR 1.137(b), filed in the above-captioned application on 02 October 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 reply and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicant previously supplied a declaration of inventorship in compliance with 37 CFR 1.497(a)-(b) and the fee for late filing of the search fee, examination fee or oath or declaration.

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing for continued processing in accordance with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 30 April 2007.

/Erin P. Thomson/

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PCT Legal Administration

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JACOBSON HOLMAN PLLC  
400 SEVENTH STREET N.W.  
SUITE 600  
WASHINGTON, DC 20004

Mail Date: 05/18/2010

**Applicant** : Volker Krink : DECISION ON REQUEST FOR  
**Patent Number** : 7645959 : RECALCULATION of PATENT  
**Issue Date** : 01/12/2010 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/554,051 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 11/06/2006 : ISSUE CERTIFICATE OF CORRECTION  
:

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

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



07 JUL 2006

Peter Zawilski  
Philips Electronics North America Corp.  
Intellectual Property & Standards  
1109 McKay Drive, M/S41-SJ  
San Jose, California 95131

In re Application of :  
EL-FARHANE :  
Application No.: 10/554,067 :  
PCT No.: PCT/IB04/01254 :  
Int. Filing Date: 16 April 2004 :  
Priority Date: 24 April 2003 :  
Atty. Docket No.: FR030044US1 :  
For: SEMICONDUCTOR DEVICE COMPRISING :  
EXTENSIONS PRODUCED FROM MATERIAL :  
WITH A LOW MELTING POINT :

DECISION ON PETITION  
UNDER 37 CFR 1.137(b)

This decision is in response to applicant's petition for revival under 37 CFR 1.137(b) filed 19 December 2005 in the United States Patent and Trademark Office (USPTO).

**BACKGROUND**

On 16 April 2004, applicant filed international application PCT/IB04/01254, which claimed a priority date of 24 April 2003. A copy of the international application was transmitted to the United States from the international bureau (IB) on 04 November 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, 24 October 2005.

On 21 October 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee; an executed declaration of the inventor; an Information Disclosure Statement; an assignment document for recording and a preliminary amendment. The application was assigned serial number 10/554,067.

On 19 December 2005, applicant filed the present petition to revive accompanied by an additional U.S. National stage filing under 35 U.S.C. 371. These papers were assigned serial number 10/561,399.

On 21 March 2006, applicant sent a facsimile communication containing an "amendment" accompanied by another U.S. National stage transmittal letter, Information Disclosure Statement and statement under 37 CFR 3.73(b). Applicant requested that these papers replace the papers originally filed on 21 October 2005 and references a discrepancy with the attorney docket number.

**DISCUSSION**

As detailed above, applicant timely filed a U.S. National stage entry of PCT/IB04/01254 on 21 October 2005. Thus, the filing of the petition to revive on 19 December 2005 is unnecessary and is **DISMISSED as moot**. Further, there can only be one National stage entry of an international application. As such, the papers filed 19 December 2005 and assigned serial number 10/561,399 will be merged into serial number 10/554,067 and the fees refunded to deposit account number 14-1270.

It is unclear what the purpose of applicant's 21 March 2006 filing is. Absent further instruction, no action will be taken.

**CONCLUSION**

For the reasons stated above, applicant's petition to revive is **DISMISSED as moot**.

The application has an international filing date of 16 April 2004 under 35 U.S.C. 363 and will be given a date of **21 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, specifically the placing of the papers in serial number 10/561,399 into the present application file, the refunding of all fees paid in serial number 10/561,399 and the termination of that application. All future correspondence should refer to serial number 10/554,067 which remains the U.S. National stage filing of PCT/IB04/01254.



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08 DEC 2006

Renner Kenner Greive Bobak Taylor & Weber  
First National Tower, Fourth Floor  
Akron, OH 44308-1456

In re Application of :  
MILLER, Roy et al. :  
U.S. Application No.: 10/554,070 :  
PCT No.: PCT/US04/12583 :  
Int. Filing Date: 23 April 2004 :  
Priority Date: 24 April 2003 :  
Attorney Docket No.: AMN.P0005 :  
For: LIQUID CRYSTAL ACCESSORIES :

**DECISION**

This is a decision on Request for Refund, filed in the United States Patent and Trademark Office on 27 July 2006.

**BACKGROUND**

On 21 October 2005, applicants filed papers for entry into the national stage of PCT/US04/12583, which included the payment of other than small entity fees of \$1400 for a national stage application.

On 27 July 2006, applicants filed this request for the refund of \$700.

**DISCUSSION**

In the papers filed 27 July 2006, applicants requested a refund of the \$700 paid in October 2005. 37 CFR 1.28 (a) states:

*(a) Refunds based on later establishment of small entity status.* A refund pursuant to § 1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment of, the full fee.

The refund request has a receipt date of 27 July 2006, long past 21 January 2006, the expiration of the three-month time period for requesting a refund.

**CONCLUSION**

For the above reason, applicants' request for a refund pursuant to 37 CFR 1.28(a) is **DISMISSED** without prejudice.

**Application No. 10/554,070**

**-2-**

Any request for reconsideration of this matter should be filed within **TWO (2) MONTHS** of the mail date of this decision.

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



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27 JUN 2007

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Renner Kenner Greive Bobak Taylor & Weber  
First National Tower, Fourth Floor  
Akron, OH 44308-1456

In re Application of :  
TAHERI, Bahman et al. :  
U.S. Application No.: 10/554,070 : DECISION ON  
PCT No.: PCT/US04/12583 :  
Int. Filing Date: 23 April 2004 : PETITION  
Priority Date: 24 April 2003 :  
Attorney Docket No.: AMN.P0005 : UNDER 37 CFR 1.181  
For: LIQUID CRYSTAL ACCESSORIES :

This is a decision on the petition under 37 CFR 1.181, filed in the United States Patent and Trademark Office on 26 March 2007.

### BACKGROUND

On 23 April 2004, applicants filed international application PCT/US04/12583, claiming a priority date of 24 April 2003. The deadline for payment of the basic national fee was 24 October 2005.

On 21 October 2005, applicants filed papers for entry into the national stage of PCT/US04/12583, including the basic national fee.

On 07 July 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905), indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the search fee, examination fee or oath or declaration were required.

On 20 February 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 March 2007, applicants filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

### DISCUSSION

Applicants claim to have submitted a timely response to the Notification of Missing Requirements and ask that holding of abandonment be withdrawn. To withdraw the holding of abandonment, applicants must provide sufficient evidence of an earlier, timely filing with the Office and a copy of the earlier submission.

Applicants have provided a date-stamped postcard receipt identifying the above captioned application and listing a declaration, an extension of time and a credit card form. Applicants have provided a copy of the declaration they claim to have earlier submitted and indicate that the fee for late filing of the declaration and fee for the extension of time were charged. The copy of the declaration is accepted as having a receipt date of 22 September 2006.

The duplicate late surcharge for the late filing of the search fee, examination fee or oath or declaration and duplicate extension of time fee will be refunded to applicants' credit card.

**CONCLUSION**

For the above reason, applicants' request to withdraw the holding of abandonment is **GRANTED.**

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 20 February 2007 is **VACATED.**

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 USC 371(c)(1), (c)(2) and (c)(4) date of 22 September 2006.

*Erin P. Thomson*

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Attorney Advisor  
PCT Legal Administration

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Adjustment date: 06/27/2007 SBASHEIR  
03/28/2007 MKAYPAGH 00000112 10554070  
01 FC:2617 -65.00 OP

Refund Ref: 06/27/2007 0030042176

Adjustment date: 06/27/2007 SBASHEIR  
03/28/2007 MKAYPAGH 00000112 10554070  
02 FC:2251 -60.00 OP

Credit Card Refund Total: \$125.00

Master C: XXXXXXXXXXXX8573



28 NOV 2006

23413  
CANTOR COLBURN LLP  
55 Griffin Road South  
Bloomfield, CT 06002

In re Application of :  
IVERSEN, Paul :  
U.S. Application No.: 10/554,130 :  
PCT No.: PCT/DK2003/000257 :  
Int. Filing Date: 15 April 2003 :  
Priority Date: None :  
Attorney Docket No.: GRP-0141 :  
For: METHOD OF SERVICING THE OUTER :  
COMPONENTS OF A WIND TURBINE :  
SUCH AS THE WIND TURBINE :  
BLADES . . . :

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

Applicants' petition to revive under 37 CFR 1.137(b) filed with the national stage papers on 20 October 2005 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.

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

*James Thomson*  
James Thomson  
Attorney Advisor  
Office of PCT Legal Administration

Tel.: (571) 272-3302



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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
10/554,135 09/26/2006 Lisa M. Schultze 27866/38267A 9361

7590 05/22/2008
MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

EXAMINER
COPPINS, JANET L

ART UNIT PAPER NUMBER
1626

MAIL DATE DELIVERY MODE
05/22/2008 PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)
The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will not be recognized for the reason(s) indicated below:

- 1. [ ] The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. [ ] The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. [ ] The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. [x] The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Handwritten signature of Mimi Turner

Patent Publication Branch
Office of Data Management



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1130 CONNECTICUT AVENUE NW, SUITE 1100  
WASHINGTON, DC 20036

Mail Date: 04/20/2010

<b>Applicant</b>	: Wataru Ikeda	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7660511	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/554,147	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 07/31/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **863** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

21 JUN 2006



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HEDMAN & COSTIGAN, P.C.  
1185 Avenue of the Americas  
New York, NY 10036

In re Application of :  
PREDAL :  
U.S. Application No.: 10/554,155 :  
PCT No.: PCT/FR2003/001544 :  
Int. Filing Date: 22 May 2003 :  
Priority Date: 22 May 2002 :  
Attorney's Docket No.: GEI-112 :  
For: NOVEL NUTRACEUTICAL AND :  
PHARMACEUTICAL COMPOSITIONS :  
AND THEIR USES :

**DECISION**

Applicant's "Petition for Revival of an International Application for Patent Designating the United States Abandoned Unintentionally Under 37 CFR §1.137(b)" filed with the national stage papers on 20 October 2005 is hereby **GRANTED** as follows:

The basic national fee and petition fee for a small entity have been paid. Applicant's statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was submitted. However, the surcharge fee of \$65.00 is also required.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that a surcharge fee pursuant to 37 CFR 1.492(h) is required.

*James Thomson*

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RAHWAY, NJ 07065-0907

Mail Date: 04/21/2010

**Applicant** : Mark T Bilodeau : DECISION ON REQUEST FOR  
**Patent Number** : 7638530 : RECALCULATION of PATENT  
**Issue Date** : 12/29/2009 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/554,185 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 10/21/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

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

The patent term adjustment has been determined to be **1000** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



07 JUN 2007

Alan Israel  
Kirschstein, Ottinger, Israel & Schiffmiller, P.C.  
489 Fifth Avenue  
New York, NY 10017

In re Application of	:	
SUGLIANI, et al.	:	DECISION ON PETITION
Serial No.: 10/554,193	:	
PCT No.: PCT/EP04/50595	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 23 April 2004	:	
Priority Date: 24 April 2003	:	
Atty Docket No.: P/63988	:	
For: COUNTER-PUMPED DISTRIBUTED RAMAN	:	
AMPLIFICATION IN WAVELENGTH DIVISION:	:	
MULTIPLEX OPTICAL COMMUNICATION	:	
SYSTEMS	:	

This decision is in response to the "Petition Under Rule 47(a)" filed 12 February 2007 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor Simone Sugliani. Applicant has provided a petition fee payment of \$130.00. Applicant is advised that the petition fee for proceeding under 37 CFR 1.47 is \$200.00. As authorized the \$70.00 difference will be charged to deposit account number 11-1145.

**BACKGROUND**

On 23 April 2004, applicant filed international application PCT/EP04/50595 which claimed priority to a previous application filed 24 April 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States was set to expire at midnight on 24 October 2005.

On 21 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 English translation of the international application as filed.

On 11 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 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 12 February 2007, applicant filed the present petition under 37 CFR 1.47(a) accompanied by a petition for a four-month extension of time. With payment of the four-month extension of time applicant's present response is considered timely filed.

### **DISCUSSION**

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

Regarding item (4), the filed declaration does not comply with 37 CFR 1.497 (a)-(b). Specifically, MPEP Section 201.03 states that:

An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

The filed declaration contains two pages "2 of 2." This suggests that either the filed declaration was compiled from numerous declarations or that the inventors only returned their signature pages. Either scenario renders the document non-compliant.

In light of the above, it is not possible to grant applicant's petition at this time.

### **CONCLUSION**

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

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

A handwritten signature in black ink, appearing to read 'Derek A. Putonen', written in a cursive style.

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



02 AUG 2007

Alan Israel  
Kirschstein, Ottinger, Israel & Schiffmiller, P.C.  
489 Fifth Avenue  
New York, NY 10017

In re Application of	:	
SUGLIANI, et al.	:	DECISION ON RENEWED
Serial No.: 10/554,193	:	
PCT No.: PCT/EP04/50595	:	PETITION UNDER
Int. Filing Date: 23 April 2004	:	
Priority Date: 24 April 2003	:	37 CFR 1.47(a)
Atty Docket No.: P/63988	:	
For: COUNTER-PUMPED DISTRIBUTED RAMAN	:	
AMPLIFICATION IN WAVELENGTH DIVISION:	:	
MULTIPLEX OPTICAL COMMUNICATION	:	
SYSTEMS	:	

This decision is in response to the "Renewed Petition Under 37 C.F.R. § 1.47(a)" filed 17 July 2007 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor Simone Sugliani.

**BACKGROUND**

On 07 June 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration.

On 17 July 2007, applicant filed the present renewed petition.

**DISCUSSION**

As detailed in the decision mailed 07 June 2007, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items 1, 2 and 3.

Regarding item (4), applicant has presently file an executed combined declaration and power of attorney which complies with 37 CFR 1.497 (a)-(b). As such, applicant has satisfied the last remaining item shown above and it is proper to grant applicant's renewed petition at this time.

**CONCLUSION**

For the reasons above, applicant's renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 23 April 2004 under 35 U.S.C. 363, and will be given a date of 17 July 2007 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known addresses of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

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



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

3 1 JAN 2008



UNITED STATES PATENT and TRADEMARK OFFICE

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

WENDEROTH, LIND & PONACK, L.L.P.  
2033 K STREET N.W.  
SUITE 800  
WASHINGTON, DC 2006-1021

In re Application of : DECISION ON  
EVRARD et al :  
Application No.: 10/554,201 :  
PCT No.: PCT/FR2004/000953 : PETITION UNDER  
Int. Filing Date: 16 April 2004 :  
Priority Date: 25 April 2003 : 37 CFR 1.181  
Attorney's Docket No.: 2005-1653A :  
For: A DEVICE... DRILLING FLUID :

This Decision is in response to applicants' "PETITION TO WITHDRAWAL HOLDING OF ABANDONMENT," which is being treated as petition under 37 CFR 1.181 filed on 28 December 2007 that the above-identified application was improperly held abandoned because the declaration was timely filed.

### BACKGROUND

On 19 April 2004, this international application was filed, claiming an earliest priority date of 25 April 2003.

On 24 October 2005, applicants 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); however, no executed declaration or oath as required by 35 U.S.C. 371(c)(4) was submitted on such date.

On 02 August 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration complying with 37 CFR 1.497(a) and (b), identifying the application by international application number and international filing date... that it is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. It also indicated that all the items set forth above must be submitted within two 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.

On 07 December 2007, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) which indicated that applicant had failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 08/02/2006 within the time period set therein; accordingly the application was abandoned.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 07 December 2007, petitioner has submitted the instant petition requesting withdrawal of the Notice of Abandonment. In support of the petition, petitioner has provided a copy of the returned/stamped receipt card acknowledging a receipt date of 21 August 2006.

### DISCUSSION

The present petition was accompanied by a copy of the original postcard which was sent to the United States Designated/Elected Office (DO/EO/US). The postcard lists the item submitted on 21 August 2006 and it indicates, *inter alia*, that an executed declaration was received on such date by the USPTO. Petitioner states that the papers accompanying the present petition are copies of the response to the Notification of Missing Requirements.

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicants' postcard receipt serves as *prima facie* evidence of receipt of the listed item on 21 August 2006 by the USPTO, i.e., the execution declaration was received on such date.

Accordingly, petitioner's response- the declaration filed on 21 August 2006- is considered timely. Accordingly, the instant application has been improperly abandoned.

### DECISION

Applicants' request to withdraw the "NOTIFICATION OF ABANDONMENT" is **GRANTED**. The NOTIFICATION OF ABANDONMENT, mailed 07 December 2007 has been **VACATED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision, that is, for issuance of a Notification of Acceptance of Application (Form PCT/DO/EO/903) identifying a 35 U.S.C. § 371(C)(1), (C)(2) and (C)(4) date of **21 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

KENYON & KENYON LLP  
ONE BROADWAY  
NEW YORK, NY 10004

Mail Date: 04/21/2010

**Applicant** : Hans-Dieter Bothe : DECISION ON REQUEST FOR  
**Patent Number** : 7574315 : RECALCULATION of PATENT  
**Issue Date** : 08/11/2009 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/554,251 : 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 **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.



ROPES & GRAY LLP  
PATENT DOCKETING 39/361  
1211 AVENUE OF THE AMERICAS  
NEW YORK NY 10036-8704

**MAILED**

**JUN 17 2010**

In re Application of

Sessa, et al.

Application No. 10/554,252

Filed: January 18, 2007

Attorney Docket No. **YU/110**

**OFFICE OF PETITIONS**

**DECISION ON PETITION**

This is a decision on the petition under 37 CFR §1.137(b), filed April 21, 2010.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of \$755.00 and publication fee of \$300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed September 10, 2009. The Notice set forth a three (3) month statutory period for reply. A response was not received within the allowable period. Accordingly, this application became abandoned on December 11, 2009. A Notice of Abandonment was mailed December 29, 2009.

The issue fee and publication fee were received April 21, 2010.

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.

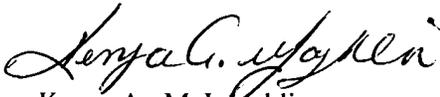
There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application,

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 of currently of record until such time as appropriate instructions are received to the contrary.

The Revocation of Power of Attorney and Appointment of New Attorney, filed April 21, 2010, is noted but cannot be entered as it made by the assignee that has not been empowered under 37 CFR 3.73(b) to act in the application. Petitioner may file the request again with a completed Form PTO/SB/96 that is enclosed for petitioner's convenience. The undersigned will not consider the renewed request for revocation of power of attorney and appointment of new attorney. Rather, if appropriate, the request will be made of record elsewhere in the USPTO and applicants will be notified by letter whether the requested change was made of record.

The application is being directed to the Office of Data Management for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.



Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions

cc:

Drinker Biddle & Reath, LLP  
One Logan Square, Suite 2000  
Philadelphia, PA 19103-6996

Enclosure: Form PTO/SB/96



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

**COPY MAILED**

OCT 14 2008

**OFFICE OF PETITIONS**

In re Application of	:	
Linhart et al.	:	
Application No. 10/554,286	:	ON PETITION
Filed: October 25, 2005	:	
Attorney Docket No. 278601US0PCT	:	

This is a decision on the petition under 37 C.F.R. § 1.182, filed July 29, 2008, to change the name of an inventor.

The petition is **GRANTED**.

The name will be changed from "Andreas Kasper" to "Andreas Hopf."

A Corrected Filing Receipt, reflecting the above name change, is enclosed.

This matter is being directed to Technology Center 1700 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to Technology Center .

Liana Walsh  
Petitions Examiner  
Office of Petitions

Enclosure: Corrected Filing Receipt



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Table with 7 columns: APPLICATION NUMBER, FILING or 371(c) DATE, GRP ART UNIT, FIL FEE REC'D, ATTY.DOCKET.NO, TOT CLAIMS, IND CLAIMS. Row 1: 10/554,286, 10/25/2005, 1792, 900, 278601USOPCT, 8, 2

CONFIRMATION NO. 3259

CORRECTED FILING RECEIPT

22850
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314



Date Mailed: 10/09/2008

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

Applicant(s)

Friedrich Linhart, Heidelberg, GERMANY;
Rudi Mulder, Voorthuisen, NETHERLANDS;
Andreas Hopf, Dahn, GERMANY;
Klaus Bohlmann, Ludwigshafen, GERMANY;

Assignment For Published Patent Application

BASF Aktiengesellschaft, Ludwigshafen, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number 22850

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP04/04159 04/20/2004

Foreign Applications

GERMANY 103 19 741.9 04/30/2003

If Required, Foreign Filing License Granted: 10/06/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US 10/554,286

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**Title**

Method for improving printability on paper or paper products with the aid of ink-jet printing method

**Preliminary Class**

427

**PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES**

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

**LICENSE FOR FOREIGN FILING UNDER****Title 35, United States Code, Section 184****Title 37, Code of Federal Regulations, 5.11 & 5.15****GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



SCHLUMBERGER OILFIELD SERVICES  
200 GILLINGHAM LANE  
MD 200-9  
SUGAR LAND TX 77478

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**DEC 14 2007**

**OFFICE OF PETITIONS**

In re Application of  
Andrew J. Hayman  
Application No. 10/554,300  
Filed: October 25, 2005  
Attorney Docket No.: 21.1041

ON PETITION

This is a decision on the petition filed December 7, 2007 under 37 CFR 1.137(b),<sup>1</sup> 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 April 20, 2007. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned July 23, 2007. Accordingly, a Notice of Abandonment was mailed November 27, 2007.

This matter is being referred to Technology Center 2862 for appropriate action on the amendment filed December 7, 2007.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions

<sup>1</sup>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). 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 require additional information where there is a question whether the delay was unintentional; and

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



WORKMAN NYDEGGER  
1000 EAGLE GATE TOWER  
60 EAST SOUTH TEMPLE  
SALT LAKE CITY UT 84111

**COPY MAILED**

**JUL 29 2009**

**OFFICE OF PETITIONS**

In re Application of :  
John Peter Johnson :  
Application No. 10/554,306 : ON PETITION  
Filed: October 4, 2005 :  
Attorney Docket No. 027412.0101C1C1 :

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 March 27, 2008. This Office action set a shortened  
statutory period for reply of three months. No reply having been  
received, the application became abandoned on June 28, 2008. A  
Notice of Abandonment was mailed on December 23, 2008.

With the instant petition, applicant made the proper statement of  
unintentional delay, paid the petition fee, and filed the  
required reply in the form of an Amendment.

The application is being forwarded to Group Art Unit 2424 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.

A handwritten signature in black ink, appearing to read "Cliff Congo". The signature is written in a cursive, somewhat stylized font.

Cliff Congo  
Petitions Attorney  
Office of Petitions

15 SEP 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

CALFEE HALTER & GRISWOLD, LLP  
800 SUPERIOR AVENUE  
SUITE 1400  
CLEVELAND OH 44114

In re Application of :  
GYGAX :  
Application No.: 10/554,309 : DECISION  
PCT No.: PCT/CH2004/000224 :  
Int. Filing Date: 13 April 2004 :  
Priority Date: 22 April 2003 :  
Attorney Docket No.: 30887/04002 :  
For: LIGHT PLANE IN THE ULTRALIGHT :  
CATEGORY AND SPORT PLANE CATEGORY :

This decision is in response to applicants' "PETITION TO WITHDRAW EXAMINER'S HOLDING OF ABANDONMENT" filed in the United States Patent and Trademark Office (USPTO) on 24 June 2008, which has properly been treated as a petition under 37 CFR 1.181. No petition fee is required.

**BACKGROUND**

On 13 April 2004, applicants filed international application PCT/CH2004/000224, which designated the United States and claimed a priority date of 22 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office 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 22 October 2005.

On 21 October 2005, applicants filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 25 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 28 May 2008, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of

America for failure to respond the NOTIFICATION OF MISSING REQUIREMENTS mailed 25 July 2006.

On 24 June 2008, applicants filed the instant submission, which has properly been treated as a petition under 37 CFR 1.181. The petition was accompanied by, *inter alia*, a copy of a declaration of inventors and a USPTO date-stamped postcard receipt.

### DISCUSSION

Applicants have provided sufficient evidence to establish that on 28 August 2006 applicants filed a declaration of inventors. The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 28 August 2006 and which itemizes a "Declaration and Power of Attorney - 2 pgs." and identifies the above-captioned application number and attorney docket number. Further, practitioner states that the copy of the declaration filed 24 June 2008 is a copy of the declaration originally filed 28 August 2006. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 24 June 2008 may properly be accepted as originally received in the USPTO on 28 August 2006. The NOTIFICATION OF ABANDONMENT mailed 28 May 2008 is hereby vacated.

The declaration filed 28 August 2006 is in compliance with 37 CFR 1.497(a)-(b).

### CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

The NOTIFICATION OF ABANDONMENT mailed 28 May 2008 is **VACATED**.

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

/Daniel Stemmer/

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



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CHAUNCEY JOHNSON  
14625 BALTIMORE AVENUE # 282  
LAUREL, MD 20707

**MAILED**

JUL 01 2010

**OFFICE OF PETITIONS**

**ON PETITION**

In re Application of :  
Shin-Jen Shiao :  
Application No.: 10/554,315 :  
Filed: October 24, 2005 :  
Attorney Docket No.: JA-SHIAO-US-1 :

This is a decision in response to the communication, filed May 10, 2010, which is being treated under the provisions of 37 CFR 1.181 (no fee) to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed August 28, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 29, 2007. A Notice of Abandonment was mailed on June 23, 2008. In response, on May 10, 2010, the present petition was filed.

Petitioner explains that the “attorney did not give the applicant any notice from USPTO about the application.”

It is initially pointed out that the Patent and Trademark Office is not the proper forum for resolving disputes between applicant and his representative. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995). Applicant is bound by the consequences of the actions or inactions of his duly authorized and voluntarily chosen representative. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Houston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987).

Pursuant to 35 U.S.C. 133, “[u]pon 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 application, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to satisfactory of the Director that such delay was unavoidable.

Therefore, without an acceptable reply, the application became abandoned by operation of law. The abandonment may be overcome upon the filing of a grantable petition to revive under the provisions of 37 CFR 1.137(a) or 37 CFR 1.137(b).

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

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).

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(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

A copy of the Restriction Requirement mailed August 28, 2007 and a copy of the forms for filing a petition to revive under the provisions of 37 CFR 1.137(a) and 37 CFR 1.137(b) accompanies this decision for petitioner’s convenience.

It is noted that the petition is signed by the inventor, Shin-jen Shaio; however, petitioner has appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). The Office does not engage in dual correspondence with petitioner and petitioner’s representative. Accordingly, petitioner must conduct all future correspondence with this Office through the representative of record. If petitioner no longer wishes to be represented by the representative of record, then a revocation of the power of attorney or patent agent should be submitted. While a courtesy copy of this decision is being mailed to the petitioner, all future correspondence regarding this patent will be directed solely to the above-noted correspondence address of record.

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.” However, petitioner may wish to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or an unavoidable petition under 37 CFR 1.137(a).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

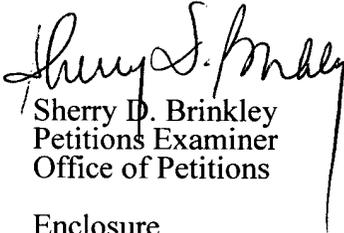
By mail:                   Mail Stop PETITIONS  
                                  Commissioner for Patents  
                                  Post Office Box 1450  
                                  Alexandria, VA 22313-1450

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<sup>1</sup>

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.



Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions

Enclosure

cc:     SHIN-JEN SHAI0  
          4F-6, NO. 98 JIANZHONG ROAD  
          HSINCHU 30070  
          TAIWAN

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<sup>1</sup> [www.uspto.gov/ebc/efs\\_help.html](http://www.uspto.gov/ebc/efs_help.html) (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)



22 AUG 2006

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

In re Application of :  
PENG *et al* :  
U.S. Application No.: 10/554,325 :  
PCT No.: PCT/IB2003/006130 :  
Int. Filing Date: 18 December 2003 :  
Priority Date: 23 December 2002 :  
Attorney Docket No.: CN 020029 :  
For: METHOD FOR SHARING CONTENTS :  
USING THE WEBDVD TECHNOLOGY :

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

Applicants' petition to revive under 37 CFR 1.137(b) filed on 24 October 2005 with the national stage papers is hereby **GRANTED** as follows:

The basic national fee, search fee, examination 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 declaration in compliance with 37 CFR 1.497(a) and (b) has been provided.

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

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

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

Mail Date: 04/20/2010

<b>Applicant</b>	: Josef Ehrenfreund	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7582589	: RECALCULATION of PATENT
<b>Issue Date</b>	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/554,336	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 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 **514** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



18 MAY 2007

STRIKER, STRIKER & STENBY  
103 EAST NECK ROAD  
HUNTINGTON, NY 11743

In re Application of HOFMANN et al	:	
U.S. Application No.: 10/554,338	:	
PCT Application No.: PCT/DE2003/004103	:	
Int. Filing Date: 11 December 2003	:	DECISION
Priority Date Claimed: 26 April 2003	:	
Attorney Docket No.: 3354	:	
For: ELECTRICAL HAND TOOL MACHINE	:	
WITH AN ACCUMULATOR PACK	:	

This is in response to the declaration filed 19 March 2007, which is being treated as a request for status under 37 CFR 1.42.

**BACKGROUND**

On 11 December 2003, applicant filed international application PCT/DE2003/004103, which claimed priority of an earlier Germany application filed 26 April 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 11 November 2004. The thirty-month period for paying the basic national fee in the United States expired on 26 October 2005.

On 24 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 26 January 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 19 March 2007, applicant filed an executed declaration.

**DISCUSSION**

The declaration states that joint inventor Markus Heckmann is deceased.

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

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

The declaration filed 19 March 2007 is not signed by the legal representative.

### CONCLUSION

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

Although the submission of the declaration appears to have been a bona fide attempt to respond to the Notification of Missing Requirements mailed 26 January 2007, the response is defective for the reason stated above. Applicant is given a time limit of ONE (1) MONTH in which to submit a proper reply. Extensions of time under 37 CFR 1.136 are permitted, although the deadline set by the Notification of Missing Requirements cannot be exceeded. Failure to timely file a proper response will result in ABANDONMENT of the application. A proper response would include an oath/declaration executed by the legal representative of the deceased inventor or an appropriate petition under 37 CFR 1.47(a) with the requisite \$200.00 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 Lin*

Bryan Lin  
PCT Legal Examiner  
PCT Legal Office

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



31 AUG 2007

STRIKER, STRIKER & STENBY  
103 EAST NECK ROAD  
HUNTINGTON, NY 11743

In re Application of HOFMANN et al	:	
U.S. Application No.: 10/554,338	:	
PCT Application No.: PCT/DE2003/004103	:	
Int: Filing Date: 11 December 2003	:	DECISION
Priority Date Claimed: 26 April 2003	:	
Attorney Docket No.: 3354	:	
For: ELECTRICAL HAND TOOL MACHINE	:	
WITH AN ACCUMULATOR PACK	:	

This is in response to the "Petition Under 37 CFR 1.47 to Accept Application Without Signature of Deceased Inventor or Inventor's Legal Representative" filed 18 June 2007, which is also being treated as a renewed request for status under 37 CFR 1.42.

**BACKGROUND**

On 11 December 2003, applicant filed international application PCT/DE2003/004103, which claimed priority of an earlier Germany application filed 26 April 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 11 November 2004. The thirty-month period for paying the basic national fee in the United States expired on 26 October 2005.

On 24 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 26 January 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 19 March 2007, applicant filed a request for status under 37 CFR 1.42 with an executed declaration.

On 18 May 2007, this Office mailed a decision dismissing the 19 March 2007 request for status.

On 18 June 2007, applicant filed the present renewed request for status under 37 CFR 1.42 and petition under 37 CFR 1.47(a).

## DISCUSSION

### I. Request for Status Under 37 CFR 1.42

The declaration states that joint inventor Markus Heckmann is deceased.

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

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

Although the declaration filed 19 March 2007 satisfies the requirements of 37 CFR 1.497(b)(2), the declaration does not properly identify the specification to which it is directed under 37 CFR 1.497(a)(2). In particular, the international application number listed on the declaration is incorrect.

### II. Petition Under 37 CFR 1.47(a)

The petition states that Kerstin Heckmann, the legal representative of deceased inventor Markus Heckmann, refuses to sign the application papers.

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, although applicant has submitted a declaration signed by the available inventors, each on his/her own behalf and on behalf of the nonsigning legal representative of the deceased inventor, the declaration is deficient for the reasons set forth in §I 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 Kerstin Heckmann refuses to sign the application papers. The petition adequately demonstrates that a bona fide attempt was made to present a copy of the application papers to Kerstin Heckmann for signature (see letter dated 06 June 2007 and electronic mail tracking message from FedEx dated 15 June 2007). Furthermore, the petition sufficiently illustrates that Kerstin Heckmann refuses to sign. Specifically, Ms. Heckman's failure to respond to the 06 June 2007 letter constitutes a constructive refusal to sign. Thus, it can be concluded with reasonable certainty that Kerstin Heckmann refuses to sign the application papers.

With regard to item (3) above, the requisite petition fee has been provided.

With regard to item (4) above, the petition states the last known address of the nonsigning legal representative.

### CONCLUSION

For the reasons in §I above, the renewed request for status under 37 CFR 1.42 is DISMISSED without prejudice.

For the reasons in §II above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits 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).

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



21 NOV 2007

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ALEXANDRIA, VA 22313-1450  
www.uspto.gov

STRIKER, STRIKER & STENBY  
103 EAST NECK ROAD  
HUNTINGTON, NY 11743

In re Application of HOFMANN et al	:	
U.S. Application No.: 10/554,338	:	
PCT Application No.: PCT/DE2003/004103	:	
Int. Filing Date: 11 December 2003	:	DECISION
Priority Date Claimed: 26 April 2003	:	
Attorney Docket No.: 3354	:	
For: ELECTRICAL HAND TOOL MACHINE	:	
WITH AN ACCUMULATOR PACK	:	

This is in response to the "Renewed Request for Status Under 37 CFR 1.142" filed 08 November 2007, which is also being treated as a renewed petition under 37 CFR 1.47(a).

**BACKGROUND**

On 11 December 2003, applicant filed international application PCT/DE2003/004103, which claimed priority of an earlier Germany application filed 26 April 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 11 November 2004. The thirty-month period for paying the basic national fee in the United States expired on 26 October 2005.

On 24 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 26 January 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 19 March 2007, applicant filed a request for status under 37 CFR 1.42 with an executed declaration.

On 18 May 2007, this Office mailed a decision dismissing the 19 March 2007 request for status.

On 18 June 2007, applicant filed a renewed request for status under 37 CFR 1.42 and petition under 37 CFR 1.47(a).

On 31 August 2007, this Office mailed a decision dismissing the 18 June 2007 request for status and petition.

On 08 November 2007, applicant filed the present renewed request for status under 37 CFR 1.42 and renewed petition under 37 CFR 1.47(a).

## DISCUSSION

### I. Request for Status Under 37 CFR 1.42

The declaration states that joint inventor Markus Heckmann is deceased.

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

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

The declaration filed on 08 November 2007 is in compliance with 37 CFR 1.42 and 37 CFR 1.497.

### II. Petition Under 37 CFR 1.47(a)

The petition states that Kerstin Heckmann, the legal representative of deceased inventor Markus Heckmann, refuses to sign the application papers.

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

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

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors, each on his/her own behalf and on behalf of the nonsigning legal representative of the deceased inventor.

**CONCLUSION**

For the reasons set forth in §I above, the renewed request for status under 37 CFR 1.42 is GRANTED.

For the reasons set forth in §II 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 11 December 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 08 November 2007.

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

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

  
Bryan Lin  
PCT Legal Examiner  
PCT Legal Office

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



2 1 NOV 2007

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Kersten Heckmann  
Joh.-Seb.-Bach-Strasse 34  
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Germany

In re Application of HOFMANN et al  
U.S. Application No.: 10/554,338  
PCT Application No.: PCT/DE2003/004103  
Int. Filing Date: 11 December 2003  
Priority Date Claimed: 26 April 2003  
For: ELECTRICAL HAND TOOL MACHINE  
WITH AN ACCUMULATOR PACK

Dear Kersten Heckmann:

You are named as the legal representative of joint inventor Markus Heckmann 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, Markus Heckmann will be designated as an inventor.

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

*Bryan Lin*

Bryan Lin  
PCT Legal Examiner  
PCT Legal Office  
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STRIKER, STRIKER & STENBY  
103 EAST NECK ROAD  
HUNTINGTON, NY 11743  
Attorney Docket No.: 3354



11 JUN 2007

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

In re Application of	:	
SAUTER et al.	:	
Application No.: 10/554,349	:	
PCT No.: PCT/NL2003/000304	:	
Int. Filing Date: 24 April 2003	:	DECISION
Priority Date: None	:	
Attorney Docket No.: 38927	:	
For: DEVICE FOR INSERTING A DRAIN	:	
AND A HANDLE FOR SUCH A DEVICE	:	

This decision is in response to the petition under 37 CFR 1.497(d) and the petition under 37 CFR 1.47(a) both filed 05 March 2007 in the United States Patent and Trademark Office (USPTO).

**BACKGROUND**

On 24 April 2003, applicants filed international application PCT/NL2003/000304 which designated the U.S. and did not claim a priority date. 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 24 October 2005.

On 24 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.

On 04 August 2006, the United States Designated/Elected Office (DO/EO/US) mailed 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).

On 05 March 2007, applicants filed a petition under 37 CFR 1.497(d) and a petition under 37 CFR 1.47(a) as well as a petition/fee for a five-month extension of time. The petition under 37 CFR 1.497(d) was accompanied by, *inter alia*, statements of Bruno Sauter and Jacob Wilkens as well as a consent of assignee and statement under 3.73(b). The petition under 37 CFR 1.47(a) was accompanied by, *inter alia*, a declaration of facts by Annemiek D. Tepper and correspondence between a Mr. Tan and a Mr. Jansen, who is non-signing inventor Jitze Libbe Jonkman's attorney. The submission also included a declaration of inventors.

## DISCUSSION

### Petition Under 37 CFR 1.497(d)

37 CFR 1.497(d), provides:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92<sup>bis</sup> subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in Sec. 1.17(i); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
- (4) Any new oath or declaration required by paragraph (f) of this section.

Applicants have satisfied items (1)-(3). Item (4) is not required.

### Petition Under 37 CFR 1.47(a)

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

As to item (1), the fee has been paid.

As to item (2), it has been established that the non-signing inventor Jitze Libbe Jonkman 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 05 March 2007 is in compliance with 37 CFR 1.497(a)-(b).

## CONCLUSION

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

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

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to 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 processing the application in the names of Bruno Sauter, Jacob Wilkens, and Jitze Libbe Jonkman, and according the application a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **05 March 2007**.



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06/11/2007 SBASHEIR 00000001 10554349

01 FC:1464

130.00 OP

Adjustment date: 06/11/2007 SBASHEIR  
03708/2007 MKAYPAGH 00000100 10554349

04 FC:1206

-130.00 OP

11 JUN 2007



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Mr. Libbe Jitze Jonkman  
De Wetterwille, 74  
9207 BL Drachten  
The Netherlands

In re Application of  
JONKMAN et al.

Application No.: 10/554,349  
PCT No.: PCT/NL2003/000304  
Int. Filing Date: 24 April 2003  
Priority Date: None  
Attorney Docket No.: 38927

For: DEVICE FOR INSERTING A DRAIN AND A HANDLE FOR SUCH A DEVICE

Dear Mr. Jonkman:

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

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

A handwritten signature in black ink, appearing to read "Daniel Stemmer".

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06 DEC 2006

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LERNER, DAVID, LITTENBERG,  
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In re Application of: :  
GETTS, Robert, C., et al. :  
U.S. Application No.: 10/554,374 :  
PCT No.: PCT/US2004/014325 :  
International Filing Date: 07 May 2004 :  
Priority Date: 09 May 2003 :  
Attorney Docket No.: POLYPROBE 3.3-028 :  
For: METHODS FOR AMPLIFICATION :  
OF NUCLEIC ACID SEQUENCES :  
USING STAGGERED LIGATION :

DECISION ON PETITION TO  
CHANGE INVENTOR'S NAME  
(37 CFR 1.182)

This decision is issued in response to the "Petition For Change In Name Of Inventor" filed by applicants on 16 November 2006. Deposit Account No. 12-1095 will be charged the required \$400 petition fee.

**BACKGROUND**

On 07 May 2004, applicants filed international application PCT/US2004/014325. The application claimed a priority date of 09 May 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., 09 November 2005. The published international application identified the second inventor as Jaime SCHWALM.

On 25 October 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 18 May 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 16 November 2006, applicants filed a response to the Notification Of Missing Requirements (with the authorization to charge Deposit Account No. 12-1095 the required four-month extension fee). The response included an executed declaration, the petition considered herein, which seeks to change the name of record for the second inventor from Jaime SCHWALM to Jaime BOYLE, and a supplemental Application Data Sheet (ADS) incorporating the change in the inventor's name.

**DISCUSSION**

Applicants' 16 November 2006 submission included the authorization to charge Deposit Account No. 12-1095 for the required petition fee and an "Affidavit In Support Of Petition For Change In Name Of Inventor" that is executed by the second inventor and confirms that this inventor's name was changed as a result of her marriage. These materials satisfy the requirements for a grantable petition under 37 CFR 1.182 to change this inventor's name.

**CONCLUSION**

Applicants' petition under 37 CFR 1.182 to change the name of record for inventor Jaime SCHWALM to Jaime BOYLE is **GRANTED**.

The declaration filed 16 November 2006 is 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 16 November 2006.



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07 JUL 2006

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In re Application of	:	
AMTMANN, et al.	:	DECISION ON PETITION
Application No.: 10/554,382	:	
PCT No.: PCT/IB04/50475	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 21 April 2004	:	
Priority Date: 29 April 2003	:	
Atty. Docket No.: AT030027	:	
For: CIRCUIT FOR A COMMUNICATION	:	
PARTNER APPLIANCE HAVING TWO SEND	:	
MODES THAT CAN BE ACTIVATED	:	

This decision is in response to applicant's petition for revival under 37 CFR 1.137(b) filed 22 December 2005 in the United States Patent and Trademark Office (USPTO).

**BACKGROUND**

On 21 April 2004, applicant filed international application PCT/IB04/50475, which claimed a priority date of 29 April 2003. A copy of the international application was transmitted to the United States from the international bureau (IB) on 11 November 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, 29 October 2005.

On 25 October 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee; an executed declaration of the inventors; an assignment document for recording and a preliminary amendment. The application was assigned serial number 10/554,382.

On 22 December 2005, applicant filed the present petition to revive accompanied by an additional U.S. National stage filing under 35 U.S.C. 371. These papers were assigned serial number 10/562,103.

On 31 January 2006, applicant sent a facsimile communication with a complete set of the papers filed 25 October 2005.

**DISCUSSION**

As detailed above, applicant timely filed a U.S. National stage entry of PCT/IB04/50475

on 25 October 2005. Thus, the filing of the petition to revive on 22 December 2005 is unnecessary and is **DISMISSED as moot**. Further, there can only be one National stage entry of an international application. As such, the papers filed 22 December 2005 and assigned serial number 10/562,103 will be merged into serial number 10/554,382 and the fees refunded to deposit account number 14-1270.

It is unclear what the purpose of applicant's 31 January 2006 filing is. Absent further instruction, no action will be taken.

### **CONCLUSION**

For the reasons stated above, applicant's petition to revive is **DISMISSED as moot**.

The application has an international filing date of 21 April 2004 under 35 U.S.C. 363 and will be given a date of **25 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, specifically the placing of the papers in serial number 10/562,103 into the present application file, the refunding of all fees paid in serial number 10/562,103 and the termination of that application. All future correspondence should refer to serial number 10/554,382 which remains the U.S. National stage filing of PCT/IB04/50475.



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12 JUL 2007

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In re Application of :  
AMTMANN, et al. :  
Application No.: 10/562,103 :  
PCT No.: PCT/IB04/50475 : REQUEST FOR REFUND  
Int. Filing Date: 21 April 2004 :  
Priority Date: 29 April 2003 :  
Atty. Docket No.: AT 030027 :  
For: CIRCUIT FOR CONTACTLESS DEVICE :  
HAVING ACTIVE AND PASSIVE SEND MODES:

The "REQUEST FOR REFUND" filed 17 January 2006 in the above-captioned application is hereby **GRANTED**.

On 25 October 2005, applicant filed two separate U.S. National stage applications for international application PCT/IB04/50475. There can only be one U.S. national stage application for a given PCT international application. Thus, the filing of two national stage applications is improper. Applicant filed the present request for refund with a request for express abandonment of application 10/562,103. A review of USPTO records finds that the requested fees were refunded to deposit account number 14-1270 on 11 July 2006.

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#3

04 NOV 2005



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In re Application of	:	
WANG, Yamin, et al.	:	
Application No.: 10/554,390	:	DECISION
PCT.No.: PCT/US04/11990	:	
Int. Filing Date: 16 April 2004	:	ON PETITION UNDER
Priority Date: 17 April 2003	:	
Docket No.: 5158N1P1	:	37 CFR 1.137(b)
For: HYDROXAMIC ACIDS USEFUL ...	:	
HYPER-PROLIFERATIVE DISORDERS	:	

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 20 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 complies with 37 CFR 1.497(a)-(b).

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 20 October 2005.

*Erin P. Thomson*  
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YOUNG & THOMPSON  
209 Madison Street  
Suite 500  
Alexandria, VA 22314

Mail Date: 06/01/2010

**Applicant** : Anders Eckerbom : DECISION ON REQUEST FOR  
**Patent Number** : 7629039 : RECALCULATION of PATENT  
**Issue Date** : 12/08/2009 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/554,393 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 10/24/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

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

The patent term adjustment has been determined to be **954** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



FOLEY AND LARDNER LLP  
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WASHINGTON DC 20007

**MAILED**

JUN 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,521,052 :  
Issued: April 21, 2009 : DECISION ON APPLICATION  
Application No. 10/554,407 : FOR PATENT TERM ADJUSTMENT  
Filed: October 24, 2005 :  
Attorney Docket No. 053466-0409 :  
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed April 29, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from zero (0) days to forty-seven (47) days.

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

On April 21, 2009, the above-identified application matured into US Patent No. 7,521,052 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 37 CFR 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 in view of the decision in Wyeth, they are entitled to a total patent term adjustment of 47 days, the sum of 179 days of patent term adjustment due to exceeding three year pendency and 80 days due to USPTO delay in prosecution minus 212 days of applicant delay.

The 179-day period is calculated based on the application having been filed under 35 U.S.C. 37 on October 28, 2005, and the patent having been issued on April 21, 2009, three years and 179 days later. Patentees assert that in addition to this 179-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 80 days for the failure by the Office to mail at least one of a

notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

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, it is the period of Office delay reduced by the period of applicant delay. In this instance there is no dispute that there has been no reduction for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (179 days) and the period of Examination Delay (80 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 259 days, which is the sum of the period of Three Year Delay (179 days) and the period of Examination Delay (80 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 47 days (179 + 80 reduced by 0 overlap – 212 (applicant delay)).

The Office agrees that as of the issuance of the patent on April 21, 2009, the application was pending three years and 175 days after its filing date.<sup>1</sup>

The Office agrees also that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 80 days is correct. At issue is whether patentees should accrue 175 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 80 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 80 days overlap. 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:

---

<sup>1</sup>Patentees are advised that the instant application was filed under 35 U.S.C. 371.

37 CFR 1.702(b) indicates that a patent is entitled to patent term adjustment if, subject to a number of limitations, the Office fails to issue a patent within three years of the actual filing date of the application (35 U.S.C. 154(b)(1)(B)). In the case of an international application, the phrase "actual filing date of the application in the United States" means the date the national stage commenced under 35 U.S.C. 371(b) or (f). See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term, 65 FR 56366, 56382-84, (Sept. 18, 2000), 1239 Off. Gaz. Pat. Office 14, 28-30 (Oct. 3, 2000).

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

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

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the

rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718<sup>2</sup>

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the commencement date of the application. In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, October 28, 2005, to the date the patent issued on April 21, 2009. Prior to the issuance of the patent, 80 days of

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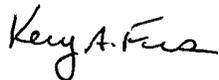
<sup>2</sup> The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106<sup>th</sup> Cong. 1<sup>st</sup> Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application plus 175 days for failure to issue the patent within three years of the commencement. All of the 175 days for Office delay in issuing the patent overlap with the 80 days of Office delay. During that time, the issuance of the patent was delayed by 175 days, not 175 + 80 days. The Office took 14 months and 80 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the initial 80 days of Office delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 175 days. The Office did not delay 175 days and then an additional 80 days. Accordingly, 175 days of patent term adjustment (not 175 and 80 days) was properly entered since the period of delay of 175 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 80 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 175 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 175 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

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



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



Atty. Dkt. No. 053466-0409

1/1m DAC  
[Signature]

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Osamu OKUDA et al.

Title: METHODS FOR TREATING  
INTERLEUKIN-6 RELATED DISEASES

Appl. No.: 10/554,407

International Filing Date: 4/28/2004  
371(c) Date: 10/24/05

Patent No.: 7,521,052

Grant Date: 4/21/2009

Examiner: Prema Maria MERTZ

Art Unit: 1646

Conf. No.: 4578

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT**  
**UNDER 37 C.F.R. §1.705**

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

Sir:

Applicants respectfully request reconsideration of the Patent Term Adjustment (PTA) determined for the captioned patent, which issued on 4/21/2009 as U.S. Patent No. 7,521,052.

The Patent Office determined that the patent was entitled to 0 days of PTA. Applicants believe that this PTA determination was made in accordance with 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)" published at 69 Fed. Reg. 34238 (Jun. 21, 2004). Under that interpretation of the PTA statute, any PTO delay under 35 U.S.C. § 154(b)(1)(A) is deemed to overlap with any 3-

year maximum pendency delay under 35 U.S.C. § 154(b)(1)(B), and so, as a practical effect, PTA may be awarded under §154(b)(1)(A) or §154(b)(1)(B), but not both.

On September 30, 2008, the United States District Court for the District of Columbia issued a decision finding that the U.S. Patent and Trademark Office's interpretation of the PTA statute is incorrect. *Wyeth v. Dudas*, Civ. Action No. 07-1492 (JR) (Sep. 30, 2008). The court determined that, under the correct interpretation of the PTA statute, periods of "overlap" are limited to "periods of time . . . [that] occur on the same day." *Wyeth*, slip op. at 8. Thus, 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." *Id.*

Applicants have recalculated PTA for the captioned patent under the court's interpretation of the PTA statute, and have determined that the patent is entitled to 47 days PTA, as shown on the attached sheet, which shows the relevant delays under 37 CFR §§1.702(a) and (b), and under 37 CFR §§1.703(a) and (b).

The attached sheet details the circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704.

(a) Total of non-overlapping PTO delay under §154(b)(1)(A) & (B):	259 days
(b) Total Applicant delay:	212 days
Final PTA Determination:	47 days

Applicants therefore respectfully request that the patent be accorded 47 days PTA.

The patent is not subject to a terminal disclaimer.

Payment of the requisite fee is submitted herewith. Should no proper payment be enclosed herewith, as by the credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

However, because this PTA error is due to a Patent Office error in interpreting and applying the PTA statute, a refund of the fee is respectfully requested.

Respectfully submitted,

Date APR 29 2009

By 

FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 672-5569  
Facsimile: (202) 672-5399

Stephen B. Maebius  
Attorney for Applicant  
Registration No. 35,264

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Patent Term Adjustment Calculation System



Add a new event to this case

Docket Number: 053466-0409  
 Application Number: 10/554407  
 Patent Number: N/A

	Event Description	Event Date	Days from Filing	PTO Days	Applicant Days	
Edit Delete	Priority Date	04/28/2003	-910			
Edit Delete	International Filing Date	04/28/2004	-544			
Edit Delete	National Stage Entry (All 371(c) Requirements Met)	10/24/2005	0			
	PCT National Stage Commencement Date	10/24/2005	0			
	14 month From Application date	12/24/2006	426			
Edit Delete	Restriction Requirement	03/14/2007	506	80		
	Restriction Requirement + 3 months	06/14/2007	598			
Edit Delete	Restriction Requirement Response Received at PTO	07/16/2007	630		32	
Edit Delete	Non-Final Office Action	10/19/2007	725			
	Non-Final Office Action + 3 months	01/19/2008	817			
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	04/18/2008	907		90	
Edit Delete	Final Office Action	06/03/2008	953			
	Final Office Action + 3 months	09/03/2008	1,045			
	3 Year Period Starts	10/24/2008	1,096			
Edit Delete	Notice of Appeal Received at PTO	12/02/2008	1,135		90	
Edit Delete	Notice of Allowance	12/16/2008	1,149			
Edit Delete	Issue Fee Paid	03/10/2009	1,233			
Edit Delete	Patent Grant Date	04/21/2009	1,275	179		
				Totals:	259	212
				PTA:	47	

Created and maintained by  
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 FOLEY & LARDNER LLP

Version: 3.02.05

LOGIN: Karen Walker

IP: 10.14.41.173

Foley & Lardner LLP



US007521052B2

(12) **United States Patent**  
**Okuda et al.**

(10) **Patent No.:** **US 7,521,052 B2**  
(45) **Date of Patent:** **Apr. 21, 2009**

(54) **METHODS FOR TREATING INTERLEUKIN-6 RELATED DISEASES**

WO WO 2004/039826 A1 5/2004

(75) Inventors: **Osamu Okuda**, Tokyo (JP); **Noriaki Yoshida**, Tokyo (JP); **Ravinder Nath Maini**, Barnes (GB)

(73) Assignee: **Chugai Seiyaku Kabushiki Kaisha**, Tokyo (JP)

(\* ) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **10/554,407**

(22) PCT Filed: **Apr. 28, 2004**

(86) PCT No.: **PCT/JP2004/006211**

§ 371 (c)(1),  
(2), (4) Date: **Oct. 24, 2005**

(87) PCT Pub. No.: **WO2004/096273**

PCT Pub. Date: **Nov. 11, 2004**

(65) **Prior Publication Data**

US 2006/0251653 A1 Nov. 9, 2006

(30) **Foreign Application Priority Data**

Apr. 28, 2003 (GB) ..... 0309619.5

(51) **Int. Cl.**  
**A61K 39/395** (2006.01)

(52) **U.S. Cl.** ..... **424/144.1**; 424/141.1

(58) **Field of Classification Search** ..... None  
See application file for complete search history.

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WO WO 99/64070 12/1999

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*Primary Examiner*—Prema Mertz

(74) *Attorney, Agent, or Firm*—Foley & Lamder LLP

(57) **ABSTRACT**

A pharmaceutical composition for the treatment of interleukin-6 (IL-6) related diseases, comprising an interleukin-6 antagonist (IL-6 antagonist) and immunosuppressants. The IL-6 antagonist is preferably an antibody to an interleukin-6 receptor (IL-6R).

**1 Claim, No Drawings**



26 DEC 2007

ROTHWELL, FIGG, ERNST & MANBECK, P.C.  
1425 K STREET, N.W.  
SUITE 800  
WASHINGTON DC 20005

In re Application of	:	
GRONLUND	:	NOTIFICATION
Application No.: 10/554,409	:	
PCT No.: PCT/IB2004/001583	:	
Int. Filing Date: 22 April 2004	:	
Priority Date: 24 April 2003	:	
Attorney's Docket No.: 1768-139	:	
For: RECOMBINANT ALLERGEN	:	

This notification is in response to applicants' submission filed 22 March 2007, which included, *inter alia*, a declaration of the inventors.

**BACKGROUND**

On 22 April 2004, applicants filed international application PCT/IB2004/001583 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 24 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 26 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 applicant must provide 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).

On 22 March 2007, applicants filed the instant submission which was accompanied by, *inter alia*, a declaration of inventors and the surcharge under 37 CFR 1.492(h).

**DISCUSSION**

The declaration filed 22 March 2007 is not sufficient because it contains non-initialed alterations (page 2 of the declaration). 37 CFR 1.52(c). "The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration." MPEP § 605.04(a). Item I.

Additionally, the non-initialed alterations change the second inventor's name. Thus, even if the alterations were initialed and dated, the declaration of the inventor submitted 22 March 2007 would not comply with 37 CFR 1.497(a)-(b) because it would not list the correct inventorship. There would be a difference in names in the named inventor between the published international application (Marianne VAN HAGE-HAMSTEN) and the declaration of the inventor (Marianne VAN HAGE). Because this difference in names would be more than a mere typographical error, a transliteration error, or a phonetic misspelling of applicant's legal name, a proper petition under 37 CFR 1.182 would be required in order to resolve the matter. Such a petition must be accompanied by the requisite petition fee of \$400 as well as a statement from the inventor.

#### CONCLUSION

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file a proper response. Extensions of time may be obtained under 37 CFR 1.136(a).

**Failure to timely file a proper response to this decision in a timely manner will result in abandonment of the application with regards to national stage prosecution in the United States.**

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

/Daniel Stemmer/

Daniel Stemmer  
Legal Examiner  
PCT Legal Affairs  
Office of Patent Cooperation Treaty  
Legal Administration  
Telephone: (571) 272-3301  
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05 AUG 2008



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
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ROTHWELL, FIGG, ERNST & MANBECK, P.C.  
1425 K STREET, N.W.  
SUITE 800  
WASHINGTON DC 20005

In re Application of	:	
GRONLUND	:	DECISION
Application No.: 10/554,409	:	
PCT No.: PCT/IB2004/001583	:	
Int. Filing Date: 22 April 2004	:	
Priority Date: 24 April 2003	:	
Attorney's Docket No.: 1768-139	:	
For: RECOMBINANT ALLERGEN	:	

This notification is in response to applicants' submission filed 31 March 2008, which has properly been treated as a petition under 37 CFR 1.181, and applicants' petition under 37 CFR 1.182 filed 23 April 2008.

**BACKGROUND**

On 22 April 2004, applicants filed international application PCT/IB2004/001583 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 24 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 26 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 applicant must provide 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).

On 22 March 2007, applicants filed a submission which was accompanied by, *inter alia*, a declaration of inventors and the surcharge under 37 CFR 1.492(h).

On 26 December 2007, a Notification was mailed indicating that the declaration filed 22 March 2007 was not sufficient because it contained non-initialed alterations. The Notification

also indicated that the second-inventor's name had changed and thus a petition under 37 CFR 1.182 was required. The Notification set a two-month extendable time period for reply.

On 13 March 2008, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 26 January 2008.

On 31 March 2008 applicants filed a "REQUEST FOR WITHDRAWAL OF NOTIFICATION OF ABANDONMENT UNDER MPEP §711.03(b)", which has properly been treated as a petition under 37 CFR 1.181.

On 23 April 2008, applicants filed a petition under 37 CFR 1.182 which was accompanied by, *inter alia*, a petition/fee for a two-month extension of time, a declaration of inventors, and a statement from Marianne van Hage.

### DISCUSSION

#### Petition Under 37 CFR 1.181

The NOTIFICATION OF ABANDONMENT mailed 13 March 2008 was mailed in error. Accordingly, it is hereby VACATED.

#### Petition Under 37 CFR 1.182

In instances where an inventor has changed his or her name after the application has been filed, a petition under 37 CFR 1.182 must be submitted. The petition must include (1) the appropriate petition fee and (2) a statement 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. MPEP § 605.04(c).

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

With regard to item (2), the statement of Marianne van Hage is a statement setting forth both names (Marianne van Hage and Marianne van Hage-Hamsten) and the procedure (divorce) whereby the change of name was effected. The statement is accepted.

#### Declaration of Inventors

The declaration of inventors filed 23 April 2008 is in compliance with 37 CFR 1.497(a)-(b).

### CONCLUSION

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

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 13 March 2008 is VACATED.

For the reasons set forth above, the petition under 37 CFR 1.182 is GRANTED.

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

/Daniel Stemmer/

Daniel Stemmer  
Legal Examiner  
PCT Legal Affairs  
Office of Patent Cooperation Treaty  
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COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
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02 OCT 2006

Cantor Colburn LLP  
55 Griffin Road South  
Bloomfield, CT 06002

In re Application of : DECISION ON  
CHUNG et al :  
Application No.: 10/554,431 :  
PCT No.: PCT/KR2004/000593 :  
Int. Filing Date: 18 March 2004 : PETITION UNDER  
Priority Date: 18 March 2003 :  
Attorney's Docket No.: YOM-0192 :  
For: A MULTI-CHANNEL SPEAKER SYSTEM AND :  
CONNECTION SYSTEM THEREOF : 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 24 October 2005.

**BACKGROUND**

On 18 March 2004, this international application was filed, claiming an earliest priority date of 18 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 18 September 2005. This international application became abandoned with respect to the United States at midnight on 18 September 2005 for failure to pay the required basic national fee.

On 24 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.



Rafael Bacares

PCT Legal Examiner

PCT Legal Office

Telephone: (571) 272-3276

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

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

**MAILED**

JUN 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,598,947 : DECISION ON REQUEST FOR  
Lehomme et al. : RECONSIDERATION OF  
Issue Date: October 6, 2009 : PATENT TERM ADJUSTMENT  
Application No. 10/554,453 : and  
Filed: August 4, 2006 : NOTICE OF INTENT TO ISSUE  
Atty Docket No.: 026032-4972 : CERTIFICATE OF CORRECTION

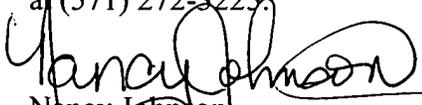
This is a decision on the petition filed on December 4, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred and seventy (570) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred and seventy (570) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred and seventy (570) days**.

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

  
Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,598,947 B2

DATED : **October 6, 2009**

**DRAFT**

INVENTOR(S) : **Lehomme 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 224 days

Delete the phrase "by 224 days" and insert – by 570 days --



24 AUG 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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FLYNN, THIEL, BOUTELL & TANIS, P.C.  
2026 Rambling Road  
Kalamazoo, MI 49008-1631

In re Application of :  
ICHIMARU :  
U.S. Application No.: 10/554,465 :  
PCT No.: PCT/JP2004/006040 :  
Int. Filing Date: 26 April 2004 :  
Priority Date: 25 April 2003 :  
Attorney's Docket No.: 4900.P0055US :  
For: MOLD ATTACHING/DETACHING :  
APPARATUS IN TIRE VULCANIZER :

**DECISION**

This is a decision on the papers filed 28 March 2006.

**BACKGROUND**

On 25 October 2005, applicant filed papers to enter the national stage of PCT/JP2004/006040 which included a declaration executed by Tsuneichi Ichimaru as the sole inventor.

On 28 March 2006, applicant filed papers to correct the inventorship which included a new declaration executed by Hironobu Ichimaru and a statement by Tsuneichi Ichimaru.

**DISCUSSION**

Applicant submitted a declaration executed by Tsuneichi Ichimaru with the national stage papers on 25 October 2005. In the papers filed 28 March 2006, applicant requests to add Hironobu Ichimaru and remove Tsuneichi Ichimaru as the inventor in the above-captioned application.

A review of the international publication ("WO 2004/101250") shows that the inventor for PCT/JP2004/006040 is Hironobu Ichimaru, not Tsuneichi Ichimaru. Therefore, the declaration executed by Tsuneichi Ichimaru does not comply with 37 CFR 1.497(a)(3).

The statement by Tsuneichi Ichimaru that the "omission of Hironobu Ichimaru as an inventor and the listing of me as the inventor in the aforesaid U.S. Patent Application Serial No. 10/544, 465 nationalized from said PCT application occurred without deceptive intent on my part" submitted on 28 March 2006 is accepted as an

adequate explanation for the submission of the declaration on 25 October 2005 listing the wrong inventor.

**DECISION**

The declaration executed by Hironobu Ichimaru on 28 March 2006 is in compliance with 37 CFR 1.497(a) and (b).

The surcharge fee of \$65.00 pursuant to 37 CFR 1.492(h) has been charged to Deposit Account No. 06-1382 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 26 April 2004 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 28 March 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

27 SEP 2006



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FLYNN THIEL BOUTELL & TANIS, P.C.  
2026 RAMBLING ROAD  
KALAMAZOO MI 49008-1631

In re Application of	:	
Ichimaru	:	
Application No.: 10/554,466	:	
PCT No.: PCT/JP04/06039	:	
Int. Filing Date: 26 April 2004	:	DECISION
Priority Date: 25 April 2003	:	
Attorney Docket No.: 4900.P0054US	:	
For: Gas Cycle Apparatus For Tire Vulcanizer	:	

This is a decision on the "Correction of Inventorship" filed on 07 March 2006, which is being treated under 37 CFR 1.497(d).

**BACKGROUND**

This international application was filed on 26 April 2004 and claimed a priority date of 25 April 2003. The United States was designated. The International Bureau communicated a copy of the published international application to the USPTO on 02 December 2004. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 25 October 2005. On 25 October 2005, applicants filed *inter alia* the basic national fee and a signed declaration.

**DISCUSSION**

The declaration of the inventor filed on 25 October 2005 names "ICHIMARU Tsuneichi" as the sole inventor, while the published international application nominates "ICHIMARU, Hironobu" as the sole inventor. The declaration filed on 07 March 2006 nominates "ICHIMARU, Hironobu" as the sole inventor, which is consistent with the published international application but not with the signed declaration filed on 25 October 2005.

Counsel has provided a statement signed by Hironobu Ichimaru, stating that "I am the inventor of PCT application PCT/JP04/006039" and that "I hereby state that the omission of me as the inventor... occurred without deceptive intent on my part." Counsel has also provided a statement signed by Tsuneichi Ichimaru, stating that "I am not an inventor of PCT application PCT/JP04/006039" and that "the omission of Hironobu Ichimaru as the inventor and the listing of me as an inventor... occurred without deceptive intent on my part."

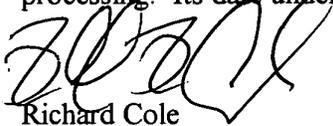
The declaration filed on 25 October 2005 was defective because it did not nominate the same inventive entity as appeared on the published international application. Tsuneichi Ichimaru was never properly named as an inventor in the U.S. national stage of this international application. Therefore, correction of inventorship under 37 CFR 1.497(d) is not required in this instance. Rather, the declaration filed on 07 March 2006, which nominates and is executed by the same inventive entity (Hironobu Ichimaru) as named in the published international application, is acceptable for purposes of compliance with 37 CFR 1.497(a) and (b).

**CONCLUSION**

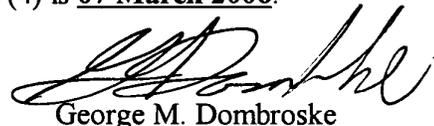
The constructive request under 37 CFR 1.497(d) is **DISMISSED AS MOOT**, without prejudice.

The \$65.00 surcharge under 37 CFR 1.492(h) is being charged to counsel's Deposit Account No. 06-1382, as authorized by the Transmittal Letter filed on 25 October 2005.

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 **07 March 2006**.



Richard Cole  
PCT Legal Examiner  
Office of PCT Legal Administration



George M. Dombroske  
PCT Legal Examiner  
Office of PCT Legal Administration  
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09/27/2006 SBASHEIR 00000003 061382 10554466  
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28 AUG 2007

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In re Application of:	:	
ASAD, Takafumi, et al.	:	DECISION ON REFUND
U.S. Application No.: 10/554,473	:	REQUEST
PCT No.: PCT/JP2004/005277	:	
International Filing Date: 13 April 2004	:	
Priority Date: 24 April 2003	:	
Atty Docket No.: 9694-000029/US/NP	:	
For: FLUID BEARING DEVICE AND	:	
DISK ROTATING DEVICE	:	

This decision is issued in response to the "Request For Reconsideration Of Claim Fees And Request For Refund" filed 08 November 2006. No petition fee is required.

**BACKGROUND**

On 13 April 2004, applicants filed international application PCT/JP2004/005277. The international application claimed a priority date of 24 April 2003, and it designated the United States. On 04 November 2004, a copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 24 October 2005.

On 24 October 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 English translation of the international application as filed, and an English translation of the amendments to the claims filed during the international phase under PCT Article 19. The Transmittal Letter included the authorization to charge Deposit Account No. 08-0750 for any fees required.

Applicants were subsequently charged \$850 as the fee for extra total claims in excess of twenty.

On 26 May 2006, applicants filed an executed declaration, the surcharge for filing the declaration later than thirty months after the priority date, a substitute specification, and a preliminary amendment directed to the claims, as amended under PCT Article 19.

On 29 August 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance (Form PCT/DO/EO/903) indicating that the requirements of 35 U.S.C. 371(c) were satisfied as of 26 May 2006.

On 08 November 2006, applicants filed the "Request For Reconsideration Of Claim Fees And Request For Refund" considered herein. The petition requests a refund of the \$850 extra claims fee.

**DISCUSSION**

For fee calculation purpose, the total number of chargeable claims contained in the claims of record as of the filing of the national stage application (i.e., the claims as amended under PCT Article 19) was nineteen. A charge for extra total claims over twenty was therefore inappropriate with respect to this set of claims.

It appears that the \$850 fee was calculated based on the set of claims included with the substitute specification filed 26 May 2006. This set of claims, which represents the English translation of the originally filed claims, includes thirty-seven chargeable claims. However, based on the Article 19 amendments, these original claims were not the claims of record in this national stage application, and the substitute specification was not a proper amendment with respect to the claims. Accordingly, calculating the filing fees based on the claims contained in the substitute specification is improper.

Under the circumstances present here, the filing fees herein are properly calculated based on the claims as amended under PCT Article 19. As noted above, this set of claims does not include more than twenty chargeable claims. The requested refund of the \$850 charge for extra total claims over twenty is therefore appropriate in the present application.

**CONCLUSION**

The "Request For Reconsideration Of Claim Fees And Request For Refund" filed 08 November 2006 is **GRANTED**.

Deposit Account No. 08-0750 will be credited with a refund of the \$850 fee charged for extra total claims over twenty.



Richard M. Ross  
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MAILED

OCT 26 2009

In re Application of :  
Erika Angerer et al. :  
Application No. 10/554,477 : OFFICE OF PETITIONS  
Filed: May 15, 2006 : DECISION ON PETITION  
Attorney Docket No. 10431-8 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 9, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed March 9, 2009. Accordingly, the date of abandonment of this application is June 10, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1,510 and the publication fee of \$300, (2) the petition fee of \$1,620; and (3) a proper statement of unintentional delay.

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

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

Ramesh Krishnamurthy  
Petitions Examiner  
Office of Petitions



05 SEP 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office  
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www.uspto.gov

Gael D Lindland  
Terumo Cardiovascular Systems Corporation  
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Ann Arbor MI 48103

In re Application of	:	
KHURI et al.	:	
Application No.: 10/554,479	:	DECISION ON
PCT No.: PCT/US2003/040799	:	
Int. Filing Date: 22 December 2003	:	PETITION UNDER
Priority Date: 20 December 2002	:	
Attorney Docket No.: 0037P-US	:	37 CFR 1.137(b)
For: SYSTEM FOR MONITORING	:	
AND CALCULATING TISSUE PH	:	

This decision is in response to applicant's submission filed 24 October 2005.

**BACKGROUND**

On 22 December 2003, applicant filed international application PCT/US2003/040799 which designated the U.S. and claimed a priority date of 20 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 15 July 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 20 June 2005.

On 24 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 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 24 October 2005.

As to item (2), applicant submitted the petition fee on 24 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.

#### Declaration of Inventors

The declaration of inventors filed 24 October 2005 is not in compliance with 37 CFR 1.497(a)-(b). The declaration includes two page twos. 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 24 October 2005 that each declaration presented to and signed by the inventors was complete. It appears that two inventors signed at least two separate declarations. However, only one declaration, which contains two page twos 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.

Also, 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 is required.

#### CONCLUSION

The petition under 37 CFR 1.137(b) is GRANTED for the reasons set forth above.

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for providing the oath or declaration later than thirty months from the priority date. Extensions of time under 37 CFR 1.136(a) are available.

**Failure to timely file a proper response to this decision in a timely manner will result in abandonment of the application with regards to national stage prosecution in the United States.**

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

  
Daniel Stemmer  
Legal Examiner

Application No.: 10/554,479

-3-

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



Jonathan P. Osha  
Osha - Liang, LLP  
1221 McKinney Street, Suite 2800  
Houston, TX 77010

19 MAR 2007

In re Application of	:	
ABADIA	:	
Application No.: 10/554,487	:	DECISION ON PETITION
PCT No.: PCT/FR04/01020	:	
Int. Filing Date: 28 April 2004	:	UNDER 37 CFR 1.10(d)
Priority Date: 28 April 2003	:	
Atty. Docket No.: 17170/014001	:	
For: INTERPOSED ELECTRICAL CONNECTOR	:	
WHICH IS INTENDED TO CONNECT TWO	:	
STACKED ELECTRONIC CIRCUITS AND TO	:	
THE METHOD OF MOUNTING SAME	:	

This is a decision on applicant's "REQUEST FOR CORRECTED FILING RECEIPT " filed 09 November 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 28 April 2004, applicant filed international application PCT/FR04/01020 which claimed priority to an earlier Australian application filed 28 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 28 October 2005.

On 26 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); an English translation of the international application as filed; an executed declaration of the inventor; an assignment document for recording and an Application Data Sheet.

On 18 July 2006, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 371 date of 26 October 2006.

On 09 November 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 24 October 2006. While, the petition states, "10/24/2006" it is clear from the petition and accompanying documentation that applicant seeks a 35 U.S.C. 371 date of 24 October 2005.

## DISCUSSION

37 CFR 1.10(a) states:

(1) Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS.

(2) The date of deposit with USPS is shown by the "date in" on the "Express Mail" label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. See § 1.6(a).

A review of the Express Mail label for the subject mailing, EV707248153US shows a "date-in" date of "10-26-05." Thus, the USPTO did correctly accord a 371 date of 26 October 2005 pursuant to 37 CFR 1.10(a). However, 37 CFR 1.10(d) provides relief in cases where applicant can show an error or discrepancy between the date of deposit and the date written in as the "date-in" date by the USPS.

37 CFR 1.10(d) states:

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

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

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

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last schedule pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Applicant has satisfied all three items above. Specific to item 3, applicant has provided a copy of the customer copy of the Express Mail mailing label which shows a USPS barrel stamp dated "OCT 24 2005." In addition, a review of the USPS track and confirm database shows acceptance of the Express Mail parcel by the USPS on 24 October 2005 at 4:16pm.

For the reasons above, it is proper to grant applicant's petition under 37 CFR 1.10(d) at this time.

**CONCLUSION**

Applicant's petition under 37 CFR 1.10(d) is **GRANTED**.

The application has an international filing date of 28 April 2004 under 35 U.S.C. 363 and will be given a date of **24 October 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

USPTO records will be updated to reflect the correct 371 date.

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 18 July 2006 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) and corrected filing receipt indicating the correct 371 date as **24 October 2005**.



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08 MAY 2007

Benoit Castel  
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745 South 23<sup>rd</sup> Street  
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Arlington, VA 22202

In re Application of	:	
McBURNEY, Terrence	:	
Application No.: 10/554,512	:	DECISION ON PETITION
PCT No.: PCT/GB04/01810	:	
Int. Filing Date: 28 April 2004	:	
Priority Date: 29 April 2003	:	
Attorney Docket No.: 3011-1037	:	
For: PROBE FOR MEASURING THERMAL AND HYDRAULIC PROPERTIES	:	

This decision is issued in response to applicant's "Resubmittal of Response to Notification of Missing Requirements" which is being treated as petition under 37 CFR 1.181 filed 26 April 2007. No petition fee is required.

**BACKGROUND**

On 28 April 2004, applicants filed international application PCT/GB04/01810 which claimed a priority date of 29 April 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 29 October 2005.

On 26 October 2005, applicant filed a Transmittal Letter for entry into the national stage accompanied, *inter alia*, by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 05 June 2006, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 26 April 2007, applicant filed the present petition which was accompanied, among other things: a copy of the declaration(s) and power of attorney(s) and a post card receipt dated 19 June 2006.

**DISCUSSION**

Applicant states in their present petition that a declaration and power of

attorney was received at the United States Patent and Trademark Office on 19 June 2006. A review of the present application reveals that the declaration is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant, title of invention, serial number, and attorney docket number. The receipt itemizes a declaration of the inventor. The receipt is stamped "Rec'd PCT/PTO 19 June 2006" across its face is sufficient to indicate that the above items were in fact received in the Office on 19 June 2006.

### **CONCLUSION**

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

This application will be given an international filing date of 28 April 2004 and a date of **19 June 2006** under 35 U.S.C. 371.

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



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11 DEC 2007

Frederick J Hamble  
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In re Application of	:	
BRINES, et al.	:	
U.S. Application No.: 10/554,517	:	
PCT No.: PCT/US04/13099	:	DECISION ON PETITION
Int. Filing Date: 26 April 2004	:	
Priority Date: 25 April 2003	:	UNDER 37 CFR 1.497 (d)
Atty. Docket No.: KW03-1A04-US	:	
For: TISSUE PROTECTIVE CYTOKINE RECEPTOR	:	AND NOTIFICATION OF
COMPLEX. ASSAYS FOR IDENTIFYING	:	
TISSUE PROTECTIVE COMPOUNDS AND	:	ABANDONMENT
USES THEREOF	:	

This decision is in response to applicant's "Request to Correct Inventorship Under 37 C.F.R § 1.497(d)" filed 20 September 2007.

**BACKGROUND**

On 26 April 2004, applicant filed International Application No. PCT/US04/13099 which claimed priority to a U.S. provisional application filed 25 April 2007. Pursuant to 37 CFR 1.495, the deadline for paying the basic national fee was set to expire at midnight on 25 October 2005.

On 25 October 2005, applicant filed a Transmittal Letter for entry into the national stage accompanied by an unsigned declaration of the inventors and a computer readable form of the sequence listing. Applicant attempted payment of the U.S. Basic national fee by credit card using form PTO-2038.

On 07 November 2005, applicant faxed in an additional form PTO-2038 containing payment of the full U.S. Basic national fee.

On 20 February 2007, 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 20 September 2007, applicant responded with the present petition accompanied by a petition for a five-month extension of time and payment of the five-month extension of time fee.

With the present extension of time request and payment of the \$2160.00 extension of time fee, the present response is considered timely filed.

### **DISCUSSION**

Applicant is advised that the present application is abandoned as to the United States of America for failure to provide payment of the full, U.S. Basic national fee prior to the expiration of thirty months from the earliest claimed priority date. Payment was not provided until 07 November 2005.

A decision on the presently filed petition under 37 CFR 1.1497(d) will be held in abeyance pending any potential revival of the present application.

Applicant may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in the recent revision of 37 CFR 1.137. See 62 Fed. Reg. 53131 (October 10, 1997); 1203 Off. Gaz. Pat. Office 63 (October 21, 1997) (Effective Date: 01 December 1997). This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

Regarding the petition under 37 CFR 1.497(d) filed 20 September 2007, applicant needs to confirm that the inventors being deleted were incorrectly named in the international application. The supplied statements include language as to the "subject matter claimed." It does not appear that a preliminary amendment has been filed in the national stage affecting the claims. However, if this is a case where inventors are being deleted as the subject matter has changed applicant should file a request under 37 CFR 1.48. 37 CFR 1.48(f)(1), by its terms, applies only to a non-provisional application filed under 37 CFR 1.53(b). (See also, 37 CFR 1.9(a)(3)). A national application resulting from an international application entering the national stage under 37 U.S.C. 371 is not an application filed under 37 CFR 1.53(b), but an application that has entered that national stage under 37 CFR 1.494 or 1.495.

Accordingly, the requirements under 35 U.S.C. 371(c)(4) must be met, namely, that an oath or declaration of the inventors complying with the regulations for oaths or declaration of applications be filed. As set forth in 37 CFR 1.497, the oath or declaration must be executed by all the inventors.

If the inventors were mistakenly named in the international application, applicant should include a statement from counsel so confirming and the present request will be considered once the application is revived.

**CONCLUSION**

For the reasons stated above, applicant's petition under 37 CFR 1.497(d) is **held in abeyance**.

This application is **ABANDONED**.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for the mailing of a "Notification of Abandonment" (Form PCT/DO/EO/909).

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



16 JAN 2008

Frederick J Hamble  
Warren Pharmaceuticals Inc  
712 Kitchawan Road  
Ossining NY 10562

In re Application of	:	
BRINES, et al.	:	
U.S. Application No.: 10/554,517	:	
PCT No.: PCT/US04/13099	:	DECISION ON PETITIONS
Int. Filing Date: 26 April 2004	:	
Priority Date: 25 April 2003	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: KW03-1A04-US	:	
For: TISSUE PROTECTIVE CYTOKINE RECEPTOR	:	AND 37 CFR 1.497 (d)
COMPLEX. ASSAYS FOR IDENTIFYING	:	
TISSUE PROTECTIVE COMPOUNDS AND	:	
USES THEREOF	:	

This decision is in response to applicant's petition to revive filed 03 January 2008 in the United States Patent and Trademark Office (USPTO). In addition, as discussed herein, the petition to revive being granted, it is proper to consider applicant's petition to correct inventorship filed 20 September 2007.

**BACKGROUND**

On 11 December 2007, applicant was mailed a decision and notification of abandonment advising applicant that a decision on the filed petition under 37 CFR 1.497(d) would be held in abeyance as the above-captioned application was abandoned for failure to provide payment of the U.S. Basic national fee prior to the expiration of thirty months from the priority date.

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

**DISCUSSION**

**I. PETITION UNDER 37 CFR 1.137(b)**

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required). Applicant has satisfied items 1-3. Item 4 does not apply. Specifically, applicant provided payment of the full, U.S. Basic national fee on 07 November 2005. Applicant has presently provided payment of the petition fee and an explanation from Mr. Frederick J. Hamble

that the delay in paying the fee was caused by an unknown limit on the credit card used to provide payment of the fees. In addition, Mr. Hamble has stated that the first indication of the abandonment of the application was the decision of 11 December 2007 and 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. As such, it is proper to grant applicant's petition to revive at this time.

## **II. PETITION UNDER 37 CFR 1.497(d)**

37 CFR 1.497(d) [formally, 37 CFR 1.48] states in part: "If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application....applicant must submit:

- (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;
- (2) the fee set forth in 37 CFR 1.17(i); and
- (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b); and
- (4) any new oath or declaration required by paragraph (f) of this section.

A review of the petition and supporting documentation finds that applicant has satisfied all four items and it is proper to grant applicant's petition at this time.

### **CONCLUSION**

For the reasons stated above, applicant's petitions under 37 CFR 1.137(b) and 37 CFR 1.497(d) are **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 26 April 2004 and will be given a date of **20 September 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

Application No.: 10/554,517

3

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

A handwritten signature in black ink, appearing to read 'Derek A. Putonen', written in a cursive style.

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



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

**COPY MAILED**

OCT 16 2008

**OFFICE OF PETITIONS**

In re Application of :  
Frank Matschullat :  
Application No. 10/554,530 :  
Filed: October 26, 2005 :  
Attorney Docket No. DE030144US1 :

ON PETITION

This is a decision in response to the petition, filed June 26, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed September 20, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 21, 2007. A Notice of Abandonment was mailed on May 2, 2008. On June 26, 2008, the present petition was filed.

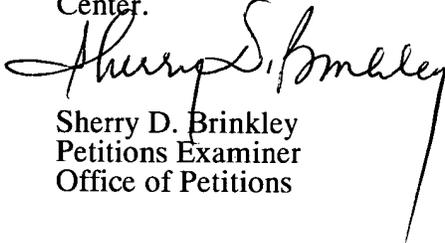
The petition is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Mark A. Wilson appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. While a courtesy copy of this decision is being mailed Mr. Wilson, all future correspondence will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of \$1,540; and (3) an adequate statement of unintentional delay<sup>1</sup>.

The 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 June 26, 2008.

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

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



Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions

cc: MARK A. WILSON  
PMB: 348, 2530 BERRYESSA ROAD  
SAN JOSE, CA 95132



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

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SEP 28 2007

**OFFICE OF PETITIONS**

Applicant: Takahshi et al.  
Appl. No.: 10/554,533  
International Filing Date: April 26, 2004  
Title: OPTICAL HEAD AND OPTICAL DISK APPARATUS  
Attorney Docket No.: OKUDP0143US  
Pub. No.: US 2006/0215504 A1  
Pub. Date: September 28, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on November 17, 2006, for the above-identified application

The request is **DISMISSED**.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein the second inventor's name (Kazuoi Momoo) was omitted from the publication.

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

The error on the front page of the publication wherein the second inventor's name (Kazuoi Momoo) was omitted from the publication may be an Office error, but it is not a material Office error under 37 CFR 1.221. The omission of an inventor's name does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent

<sup>1</sup>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).

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

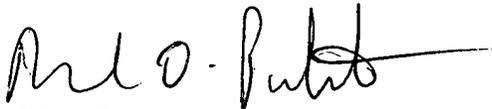
The applicant is advised that a “request for republication of an application previously published” may be filed under 37 CFR 1.221(a). Such a request for republication “must include a copy of the application compliance with the Office’s electronic filing system requirements and be accompanied by the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



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

Mail Date: 05/24/2010

<b>Applicant</b>	: Hiroshige Hirano	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7642583	: RECALCULATION of PATENT
<b>Issue Date</b>	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/554,541	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 10/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **495** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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HOXIE & ASSOCIATES LLC  
75 MAIN STREET , SUITE 301  
MILLBURN, NJ 07041

Mail Date: 04/21/2010

<b>Applicant</b>	: Klaus Hinterding	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7625950	: RECALCULATION of PATENT
<b>Issue Date</b>	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/554,556	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 10/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **804** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

13 MAR 2007



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NOVAK DRUCE DELUCA & QUIGG, LLP  
1300 EYE STREET NW  
SUITE 1000 WEST TOWER  
WASHINGTON DC 20005

In re Application of	:	DECISION ON
KOBER et al	:	
PCT No.: PCT/EP2004/004401	:	
Application No.: 10/554,591	:	PETITION UNDER
Int. Filing Date: 26 April 2004	:	
Priority Date: 26 April 2003	:	
Attorney's Docket No.: 8020.104 PCUS00	:	37 CFR 1.47(a)
For: METHOD AND DEVICE...	:	
AIR SAMPLES	:	

This decision is in response to applicants' "PETITION UNDER 37 CFR 1.47" submitted on 26 December 2006 that seeks the acceptance of the application without the signature of the inventor Dr. Horner. The Petition fee is now \$200.00 and petitioner is deficient by \$70.00 because only \$130.00 was submitted.

**BACKGROUND**

On 26 April 2004, applicants filed international application PCT/EP2004/004401, which claimed priority of an earlier application filed 26 April 2003. A copy of the international application was transmitted to the United States from the International Bureau on 11 November 2004.

On 26 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). However, no executed declaration or oath was submitted at such time.

On 25 August 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating, *inter alia*, that "the 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 notification set two (2) months from the date of this notice or 32 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment."

In an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), applicants, inter alia, filed on 26 December 2006, a petition under 37 CFR 1.47(a), a declaration for U.S. Patent Application executed by Kober, Christen, Probeck, Bargon and Vogtle on their behalf and on behalf of the nonsigning inventor Horner, and a declaration by Dr. J. Uwe Muller.

### **DISCUSSION**

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

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

#### **INVENTOR CANNOT BE REACHED:**

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under **37 CFR 1.47**, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under **37 CFR 1.47**.

Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under **37 CFR 1.47**. **37 CFR 1.43** may be available under these circumstances. See **MPEP § 409.02**. Such a petition under **37 CFR 1.47** will be dismissed as inappropriate.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

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

Regarding requirement (1), petitioner has now provided the complete petition fee of \$200.00 under 37 CFR 1.17(g) because the remaining \$70.00 has been charged to Deposit Account No.: 14.1437.

Regarding requirement (2), the averments of Mr. Muller are insufficient to support a finding that the nonsigning inventor, Dr. Horner could not be found after diligent effort. The declaration of Mr. Hutson states that "... we have so far not been able to locate Dr. Horner in England" is vague as to what diligent efforts were made to locate Dr. Horner.

Consequently, Dr. Muller's declaration fails to show diligent effort to locate inventor Dr. Horner because no proof to corroborate his actions that Dr. Horner could not be reached after diligent effort has been provided. For example, he has not shown that he has searched for the above non-signing inventor's new address by using a broad search in the internet or by using a phone director to try to locate Dr. Horner's new address.

Accordingly, at this time it can not be concluded that the nonsigning Mr. Horner could not be reached after diligent effort as stipulated under 37 CFR 1.47(a).

Regarding requirement 3, petitioner has provided a statement of the last known address of the missing inventor.

Regarding requirement 4, the declaration submitted is a defective executed composite declaration. The composite declaration is defective because it comprises of 3 sheets of page 3, 2 sheets of page 4, 1 sheets of page 2, 1 sheet of page 1. A composite declaration under 37 CFR 1.497(a) and (b) requires that the declaration must be complete and identify each inventor in each set of declarations provided. In this case there appears to be only one set that is.

Copies of the same page is not part of a proper declaration since it is considered a composite declaration and each must be a complete declaration with the proper statement and the names of each inventor even though each set of declarations may not have all the signatures of the inventors. Therefore, a proper declaration must consist of individual complete sets of declaration that taken as a whole would have all the required signatures as required under 37 CFR 1.497(a)(3).

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

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

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

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15 NOV 2007



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1300 EYE STREET NW  
SUITE 1000 WEST TOWER  
WASHINGTON DC 20005

In re Application of	:	DECISION ON RENEWED
KOBER et al	:	
PCT No.: PCT/EP2004/004401	:	
Application No.: 10/554,591	:	
Int. Filing Date: 26 April 2004	:	PETITION UNDER
Priority Date: 26 April 2003	:	
Attorney's Docket No.: 8020.104 PCUS00	:	
For: METHOD AND DEVICE...	:	
AIR SAMPLES	:	37 CFR 1.47(a)

This decision is in response to applicant's "RESPONSE TO DECISION ON PETITION" filed on 14 May 2007.

**BACKGROUND**

The decision by this Office dated 13 March 2007 indicated that items (2) and (4) under 37 CFR 1.47(a) had not been satisfied.

On 14 May 2007, petitioner submitted a Renewed Petition Under 37 CFR 1.47(a) requesting reconsideration of the Office's decision of 13 March 2007 in light that Dr. Horner has now executed the declaration, and a proper composite declaration has been filed.

**DISCUSSION**

The renewed petition states subsequent to the date of the Decision, Mr. Horner has executed the declaration. The declaration is now signed by all the inventors.

Accordingly, the declaration submitted on 14 May 2007 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 May 2007.



Rafael Bacares

PCT Legal Examiner

PCT Legal Office

Telephone: (571) 272-3276

Facsimile: (571) 273-0459



24 AUG 2006

Michael J. Bujold  
Davis & Bujold, P.L.L.C.  
Fourth Floor  
500 North Commercial Street  
Manchester, NH 03101-1151

In re Application of	:	
KUESTER, Stephen Michael	:	
Application No.: 10/554,592	:	DECISION ON PETITION
PCT No.: PCT/GB04/01393	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 26 March 2004	:	
Priority Date: 28 March 2003	:	
Attorney Docket No.: COLGRA P60AUS	:	
For: HIGHCHAIRS	:	

The petition to revive under 37 CFR 1.137(b) filed 27 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 in accordance with this decision.

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

**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

Paper No.: \_\_\_\_\_

DATE : 06/08/10

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 10554595 Patent No.: 7664272

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**



*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**

**Approved in Part**

**Denied**

All changes apply.

Specify below which changes do not apply.

State the reasons for denial below.

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*[Signature]*

6/30/10



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180 NORTH STETSON AVENUE  
CHICAGO IL 60601-6731

**COPY MAILED**

**JAN 04 2008**

**OFFICE OF PETITIONS**

In re Application of :  
Van Well :  
Application No. 10/554,604 : ON PETITION  
Filed: October 27, 2005 :  
Attorney Docket No. 260340 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 21, 2007, to revive the above-identified application.

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

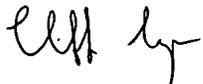
The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed January 17, 2007. This Office action set a shortened statutory period for reply of three months. No extensions of time were obtained. Accordingly, no reply having been received, the application became abandoned on April 18, 2007. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

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

The matter is being forwarded to Group Art Unit 2183 for consideration of the Amendment filed September 21, 2007.

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



Cliff Congo  
Petitions Attorney  
Office of Petitions



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875 THIRD AVE  
18TH FLOOR  
NEW YORK NY 10022

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**JUN 16 2008**

**OFFICE OF PETITIONS**

In re Application of :  
Brown, et al. : DECISION ON PETITION  
Application No. 10/554,626 :  
Filed: October 26, 2005 :  
Atty. Dkt. No.: 102790-133 :  
(30077) :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed March 26, 2008.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby GRANTED.

This application was held abandoned for failure to timely submit a proper reply to the non-final Office action mailed August 31, 2007. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed March 18, 2008.

Petitioners argue that a proper response to the non-final Office action, including petition for three month extension of time, was timely submitted on February 29, 2008.

Review of Office records reveals that the response received at the USPTO on February 29, 2008, while intended for instant application did not include the correct application serial number. The response improperly cited U.S. App. No. 10/544,626. As a result of applicants' error, the application was held abandoned.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant failed to correctly identify the application by citing an incorrect application number in the response. The Office elects, in this instance, to treat applicant's error as a correctable minor error as permitted under MPEP 502. However, applicants are reminded that minor errors, such as occurred in the instant application, are to be

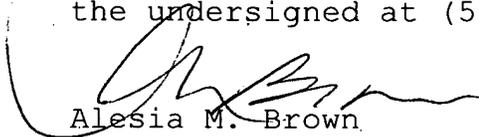
avoided in the future by the careful review of correspondence prior to submission to the Office.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

This application is being forwarded to Technology Center 1700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



Alesia M. Brown  
Petitions Attorney  
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
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Alexandria, VA 22313-1450  
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SNELL & WILMER L.L.P.  
600 ANTON BOULEVARD  
SUITE 1400  
COSTA MESA CA 92626

JAN 17 2007

In re Application of  
MCCROSSAN, JOSEPH, et al.

Application No. 10/554,627  
Filed: October 26, 2006

For: **RECORDING MEDIUM,  
REPRODUCTION APPARATUS,  
RECORDING METHOD, REPRODUCING  
METHOD, PROGRAM AND INTEGRATED  
CIRCUIT FOR RECORDING A VIDEO  
STREAM AND GRAPHICS WITH WINDOW  
INFORMATION OVER GRAPHICS DISPLAY**

DECISION ON PETITION  
TO MAKE SPECIAL

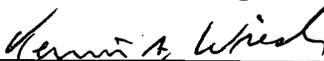
This is a decision on the petition filed July 12, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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.

  
Kenneth A. Wieder  
Special Program Examiner  
Technology Center 2600  
Communications



Modiano & Associati  
Via Meravigli 16  
Milano 20123 IT ITALY

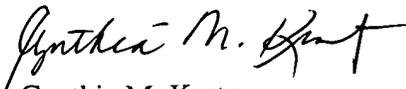
In re Application of GRITTI et al.	:	
Application No.: 10/554,643	:	DECISION ON
PCT No.: PCT/EP04/04331	:	
Int. Filing: 23 April 2004	:	PETITION TO REVIVE
Priority Date: 08 May 2003	:	
Attorney Docket No.:40716/AJ/lp	:	UNDER 37 CFR 1.137(b)
For: AUTOMATIC MACHINE FOR	:	
PRODUCING CORRUGATED SHEET-LIKE	:	
ELEMENTS, PARTICULARLY FOR	:	
PACKAGING.....	:	

The petition to revive under 37 CFR 1.137(b) filed 24 July 2009 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the declaration, in compliance with 37 CFR 1.497(a) and (b), was filed along with the \$65 surcharge for filing the declaration after the thirty month period. The required petition fee of \$810 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 24 July 2009.

  
 Cynthia M. Kratz  
 Attorney Advisor  
 PCT Legal Office  
 Office of PCT Legal Administration  
 Telephone: (571) 272-3286  
 Facsimile: (571) 273-0459



14 JUN 2006

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YOUNG & THOMPSON  
745 South 23<sup>rd</sup> Street  
2<sup>nd</sup> Floor  
Arlington, VA 22202

In re Application of :  
CASTORINO, Paolo :  
U.S. Application No.: 10/554,645 :  
PCT No.: PCT/IT2003/000561 :  
Int. Filing Date: 19 September 2003 :  
Priority Date: 24 April 2003 :  
Attorney's Docket No.: 2508-1024 :  
For: ANTI-INJURY PROTECTION DEVICE :  
FOR HYDRAULIC LOADING :  
PLATFORM :

**DECISION**

Applicant's "Petition to Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b)" filed on 09 May 2006 is hereby **GRANTED** as follows:

The basic national fee, surcharge fee and petition fee for a small entity have been paid. Applicant's statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

No declaration was provided.

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



07 SEP 2006

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United States Patent and Trademark Office  
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OSTROLENK FABER GERB & SOFFEN  
1180 AVENUE OF THE AMERICAS  
NEW YORK NY 10036-8403

In re Application of	:	
FASKOWICZ, Ariel	:	
Application No.: 10/554,650	:	DECISION
PCT No.: PCT/ES04/00099	:	
Int. Filing Date: 03 March 2004	:	ON PETITION UNDER
Priority Date: 06 March 2003	:	
Docket No.: P/4043-226	:	37 CFR 1.137(b)
For: NON-SLIP DEVICE WHICH IS USED TO	:	
MARK DETERMINED POINTS ON THIN	:	
LAYERS	:	

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 26 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 fee for late furnishing of the search fee, examination fee or oath or declaration after thirty months from the priority date and the fee for filing the translation after 30 months will be charged to 15-0700, 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 under 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) of 26 October 2005.

*Erin P. Thomson*

Erin P. Thomson  
Attorney Advisor  
PCT Legal Administration

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

09/07/2006 SBASHEIR 00000002 150700 10554650  
01 FC:1617 130.00 DA  
02 FC:1618 130.00 DA

29 JAN 2007



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PATENTMETRIX  
14252 CULVER DR. BOX 914  
IRVINE, CA 92604

In re Application of	:	
Morton et al.	:	
Application No.: 10/554,656	:	
PCT No.: PCT/GB04/01729	:	
Int. Filing Date: 23 April 2004	:	DECISION
Priority Date: 25 April 2003	:	
Attorney Docket No.: CXR101.ORD	:	
For: Control Means For Heat Load	:	
In X-Ray Scanning Apparatus	:	

This is in response to the correspondence filed on 17 October 2006, which is being treated under 37 CFR 1.497(d).

**BACKGROUND**

This international application was filed on 23 April 2004, claimed a priority date of 25 April 2003, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 11 November 2004. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 25 October 2005. Applicants filed *inter alia* the basic national fee on 25 October 2005.

On 25 August 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h). The Form indicated that "Signature of the second inventor Russell David Luggar is missing, form IB306 is needed of such a change."

**DISCUSSION**

Inspection of the declaration of inventorship filed on 25 October 2005 reveals that it nominates the same inventive entity as appears on the published international application. However, Russell David Luggar has not executed the declaration, and the section listing data pertaining to him appears to have been altered by being crossed out. The declaration is defective both because Mr. Luggar's signature is missing and because of said un-initialed alteration. The correspondence filed on 17 October 2006 states in part that

Applicant requests that the inventorship be amended to reflect the true and correct inventorship of the present application. In the original filing, Mr. Russell David Luggar was recognized as an inventor. Mr. Luggar is not an inventor of the claims as currently pending. Applicant therefore requests that Mr. Luggar's name be removed as an inventor. Consequently, an oath or declaration from Mr. Luggar is not required.

In view of this statement, which indicates that the reason for the absence of Mr. Luggar's signature is that he is allegedly not a proper inventor (as opposed to being unavailable per 37 CFR 1.42, 1.43 or 1.47), counsel's attention is drawn to 37 CFR 1.497(d), under which the instant correspondence is being treated. A declaration filed under 37 CFR 1.497 (d) must be by the actual inventor or inventors as required under 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47. The declaration must be accompanied by (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part, (2) the processing fee set forth in 37 CFR 1.17; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (*See* 37 CFR 3.73(b)). *See* Section 201.03 of the Manual of Patent Examining Procedure (M.P.E.P.).

Regarding requirement (1), applicants have not provided an appropriate statement by Russell David Luggar. Accordingly, requirement (1) has not been satisfied.

Regarding requirement (2), the required processing fee has not been paid.

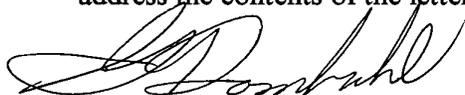
Regarding requirement (3), inspection of the published international application suggests that CRX Limited may enjoy an assignment interest in the instant application, but no written consent of the assignee has been provided.

### CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT** of this application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.497(d)". No additional processing fee is required.

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



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



PATENTMETRIX  
14252 CULVER DR. BOX 914  
IRVINE, CA 92604

02 APR 2007

In re Application of	:	
Morton et al.	:	
Application No.: 10/554,656	:	
PCT No.: PCT/GB04/01729	:	
Int. Filing Date: 23 April 2004	:	DECISION
Priority Date: 25 April 2003	:	
Attorney Docket No.: CXR101.ORD	:	
For: Control Means For Heat Load	:	
In X-Ray Scanning Apparatus	:	

This is in response to applicants' response to the decision under 37 CFR 1.497(d), filed on 28 March 2007.

**DISCUSSION**

In response to the correspondence filed on 17 October 2006 (and the declaration of inventorship filed on 25 October 2005), a decision was mailed on 29 January 2007, stating in part that

Inspection of the declaration of inventorship filed on 25 October 2005 reveals that it nominates the same inventive entity as appears on the published international application. However, Russell David Luggar has not executed the declaration, and the section listing data pertaining to him appears to have been altered by being crossed out. The declaration is defective both because Mr. Luggar's signature is missing and because of said un-initialed alteration. The correspondence filed on 17 October 2006 states in part that

*Applicant requests that the inventorship be amended to reflect the true and correct inventorship of the present application. In the original filing, Mr. Russell David Luggar was recognized as an inventor. Mr. Luggar is not an inventor of the claims as currently pending. Applicant therefore requests that Mr. Luggar's name be removed as an inventor. Consequently, an oath or declaration from Mr. Luggar is not required.*

In view of this statement, which indicates that the reason for the absence of Mr. Luggar's signature is that he is allegedly not a proper inventor (as opposed to being unavailable per 37 CFR 1.42, 1.43 or 1.47), counsel's attention is drawn to 37 CFR 1.497(d), under which the instant correspondence is being treated. A declaration filed under 37 CFR 1.497 (d) must be by the actual inventor or inventors as required under 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47. The declaration must be accompanied by (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part, (2) the processing fee set forth in 37 CFR 1.17; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (See 37 CFR 3.73(b)). See Section 201.03 of the Manual of Patent Examining Procedure (M.P.E.P.).

Regarding requirement (1), applicants have not provided an appropriate statement by Russell David Luggar. Accordingly, requirement (1) has not been satisfied.

Regarding requirement (2), the required processing fee has not been paid.

Regarding requirement (3), inspection of the published international application suggests that CRX Limited may enjoy an assignment interest in the instant application, but no written consent of the assignee has been provided.

In response, counsel now states that

A review of the inventorship records, however, revealed that Mr. Luggar is, in fact, an inventor and, therefore, should (and did) execute a compliant oath and declaration. In that light, Applicant is submitting Mr. Luggar's signature on a compliant oath and declaration. The executed oath and declaration accompanies this submission. Applicant therefore withdraws its request to modify the inventorship of the present application.

Review of the declaration document filed on 28 March 2007 reveals that it nominates inventors Morton and Luggar, but that it does not nominate the other joint inventor (Paul De Antonis) who was named in the published international application. Meanwhile, review of the declaration document signed by Messrs. Morton and De Antonis, which was filed on 25 October 2005, reveals that it is defective in that it includes an un-initialed alteration (specifically, the section referring to Mr. Luggar has been crossed out). Therefore, it is not clear what inventive entity was being nominated when Messrs. Morton and De Antonis executed the declaration. Therefore, a new oath or declaration nominating and executed by the entire inventive entity is required.

### CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED AS MOOT**, without prejudice.

Applicants have the longer of (a) **TWO (2) MONTHS** from the date of the decision mailed on 29 January 2007 (as extended pursuant to 37 CFR 1.136(a)) or (b) **ONE (1) MONTH** from the mail date of this decision (**NOT** extendable under 37 CFR 1.136(a)) in which to file the response described above - that is, an oath or declaration compliant with 37 CFR 1.497(a) and (b). Failure to timely reply will result in **ABANDONMENT** of this application.

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



George Dombroske  
PCT Legal Examiner  
Office of PCT Legal Administration  
Tel: (571) 272-3283  
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25 JUN 2007

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In re Application of	:	
Morton et al.	:	
Application No.: 10/554,656	:	
PCT No.: PCT/GB04/01729	:	
Int. Filing Date: 23 April 2004	:	DECISION
Priority Date: 25 April 2003	:	
Attorney Docket No.: CXR101.ORD	:	
For: Control Means For Heat Load	:	
In X-Ray Scanning Apparatus	:	

This is in response to applicants' correspondence filed on 01 May 2007.

**DISCUSSION**

In response to the correspondence filed on 28 March 2007, a decision was mailed on 02 April 2007, stating in part that

Review of the declaration document filed on 28 March 2007 reveals that it nominates inventors Morton and Luggar, but that it does not nominate the other joint inventor (Paul De Antonis) who was named in the published international application. Meanwhile, review of the declaration document signed by Messrs. Morton and De Antonis, which was filed on 25 October 2005, reveals that it is defective in that it includes an un-initialed alteration (specifically, the section referring to Mr. Luggar has been crossed out). Therefore, it is not clear what inventive entity was being nominated when Messrs. Morton and De Antonis executed the declaration. Therefore, a new oath or declaration nominating and executed by the entire inventive entity is required.

In response, applicants have provided a declaration document nominating and signed by the same inventive entity as was listed on the published international application. However, inspection of said declaration reveals that it appears to have been assembled by compiling separate sheets signed by each inventor so as to arrive at the complete document. In this regard, counsel' attention is drawn to MPEP 201.03, which states in part that

While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

In view of the policy explained above, it would not be appropriate to accept the declaration document at this time.

**CONCLUSION**

The declaration filed on 01 May 2007 is **NOT ACCEPTED**, without prejudice.

Applicants have the longer of (a) **TWO (2) MONTHS** from the date of the decision mailed on 29 January 2007 (as extended pursuant to 37 CFR 1.136(a)) or (b) **ONE (1) MONTH** from the mail date of this decision (**NOT** extendable under 37 CFR 1.136(a)) in which to file an oath or declaration compliant with 37 CFR 1.497(a) and (b). Failure to timely reply will result in **ABANDONMENT** of this application with respect to the national stage in the United States.

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



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



**CONCLUSION**

The declaration filed on 24 July 2007 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **24 July 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

UNITED STATES DEPARTMENT OF COMMERCE  
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MURATA MANUFACTURING COMPANY, LTD.  
C/O KEATING & BENNETT, LLP  
1800 Alexander Bell Drive  
SUITE 200  
Reston, VA 20191

Mail Date: 04/20/2010

<b>Applicant</b>	: Nobuaki Ogawa	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7656677	: RECALCULATION of PATENT
<b>Issue Date</b>	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
<b>Appliction No</b>	: 10/554,671	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 10/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **125** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



# UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office  
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FLYNN THIEL BOUTELL & TANIS, P.C.  
2026 RAMBLING ROAD  
KALAMAZOO, MI 49008-1631

Mail Date: 04/21/2010

<b>Applicant</b>	: Edward John Anthony	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7614352	: RECALCULATION of PATENT
<b>Issue Date</b>	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/554,675	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 10/10/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **474** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 OCT 2008



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WORKMAN NYDEGGER  
60 EAST SOUTH TEMPLE  
1000 EAGLE GATE TOWER  
SALT LAKE CITY UT 84111

In re' Application of  
Golias  
Application No.: 10/554,686  
PCT No.: PCT/AU2003/001025  
Int. Filing Date: 13 August 2003  
Priority Date: 30 April 2003  
Attorney Docket No.: 16058.9  
For: Collapsible Supporting Structure

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DECISION

This is in response to the refund request filed on 07 August 2008.

**DISCUSSION**

This international application was filed on 13 August 2003 and claimed a priority date of 30 April 2003. The United States was designated. The International Bureau published the international application on 11 November 2004. The thirty month period for payment of the basic national fee in the United States expired as of midnight on 30 October 2005. On 27 October 2005, applicant filed *inter alia* the basic national fee. The accompanying Transmittal Letter included a claim of small entity status.

On 08 August 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

On 07 August 2006, applicant filed a "Notification of Loss of Entitlement to Small Entity Status."

On 21 August 2006, applicant filed a response, including a declaration and surcharge.

On 16 January 2007, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicant, showing a date under 35 U.S.C. 371(c)(1), (2) and (4) of "08/21/2006."

**DISCUSSION**

Applicant refers to a \$700.00 deposit account charge and states that "it seems that the additional charge was a result of the loss of small entity status. However, because the application was properly filed as a small entity, applicant submits that it should not be required to pay the large entity fee. As such applicant respectfully requests a refund of the second fee charge of \$700."

Review of the record reveals that applicant initially paid the following small entity fees: basic national fee (\$150.00), examination fee (\$100), search fee (\$200.00), extra independent claims fee (\$200.00) and extra total claims fee (\$50.00). Subsequent to the filing of the

“Notification of Loss of Entitlement to Small Entity Status,” each of said claims was adjusted by the USPTO to reflect the respective large entity fee.

37 CFR 1.27(g)(1) provides that “Once small entity status is established in an application or patent, fees as a small entity may thereafter be paid in that application or patent without regard to a change in status until the issue fee is due or any maintenance fee is due.” *See also* MPEP 509.03. In this case, the fees at issue were paid subject to the small entity assertion made in the Transmittal Letter filed on 27 October 2005. The subsequent filing of the “Notification of Loss of Entitlement to Small Entity Status” on 07 August 2006 does not operate to void the validity of the previous payment of small entity fees under the extant small entity assertion. Therefore, the adjustment to the fees was made in error.

The fee status of this application is being corrected to reflect the following small entity fees: basic national fee (\$150.00), examination fee (\$100), search fee (\$200.00), extra independent claims fee (\$200.00) and extra total claims fee (\$50.00). The \$700.00 charged in error is being refunded to Deposit Account 23-3178, per the authorization included in the instant refund request.

#### **DECISION**

The refund request is **GRANTED**.

This application is being returned to Technology Center 3618 for further proceedings.

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



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

Mail Date: 06/01/2010

**Applicant** : Yoshihiko Sano : DECISION ON REQUEST FOR  
**Patent Number** : 7648526 : RECALCULATION of PATENT  
**Issue Date** : 01/19/2010 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/554,725 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 10/27/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

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

The patent term adjustment has been determined to be **1100** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



EDWARDS ANGELL  
PALMER & DODGE LLP  
P.O. BOX 55874  
BOSTON MA 02205

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**DEC 07 2009**

**OFFICE OF PETITIONS**

In re Application of :  
Hubschwerlen, et al. :  
Application No. 10/554,732 : DECISION  
Filed/Deposited: 28 October, 2005 :  
Attorney Docket No. 64391(41925) :

This is a decision on the petition filed on 17 September, 2009, 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.

The petition under 37 C.F.R. §1.181 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 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a “Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment.”

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw  
the Holding of Abandonment

**Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.**

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

## BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 19 December, 2008, with reply due absent extension of time on or before 19 March, 2009.

The application went abandoned by operation of law after midnight 19 March, 2009.

The Office mailed the Notice of Abandonment on 21 August, 2009.

On 17 September, 2009, Petitioner filed a petition pursuant to 37 C.F.R. §1.181—and averred non-receipt of the Office action in question, however, Petitioner failed to provide the complete set of statements and the documentation required, as set forth below in the citation from the Manual of Patent Examining Procedure (MPEP). These include, *inter alia*, statements of non-receipt at the correspondence address of record, search of the file and non-discovery, description of the docketing system and statement of sufficient reliability, a copy of the docket sheet (or file jacket cover) for the instant application and a copy of the due date calendar/docket for the office/firm and other such requirements as set forth in the guidance in the Commentary at MPEP §711.03(c)(I).

Petitioner is directed to the appropriate guidance (MPEP §711.03(c)(I)), and requested to comply with it.

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent 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.<sup>1</sup>

\*\*\*

If Petitioner is unable to comply with and/or otherwise satisfy these requirements, he may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: [http://www.uspto.gov/web/offices/pac/mpep/documents/0700\\_711\\_03\\_c.htm#sect711.03c](http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c) )

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office 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.<sup>2</sup>

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).

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<sup>1</sup> See: MPEP §711.03(c) (I)(A).

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

Application No. 10/554,732

Allegations as to the Request to  
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: [http://www.uspto.gov/web/offices/pac/mpep/documents/0700\\_711\\_03\\_c.htm#sect711.03c](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.)

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<sup>3</sup>) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).



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

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<sup>3</sup> The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.



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YOUNG & THOMPSON  
209 Madison Street  
Suite 500  
Alexandria, VA 22314

Mail Date: 04/20/2010

<b>Applicant</b>	: Mikael Nutsos	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7594959	: RECALCULATION of PATENT
<b>Issue Date</b>	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
<b>Appliction No</b>	: 10/554,752	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 03/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **563** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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YOUNG & THOMPSON  
209 Madison Street  
Suite 500  
Alexandria, VA 22314

Mail Date: 05/17/2010

**Applicant** : Mikael Nutsos : NOTICE CONCERNING IMPROPER  
**Patent Number** : 7594959 : CALCULATION OF PATENT TERM  
**Issue Date** : 09/29/2009 : ADJUSTMENT BASED UPON USPTO  
**Application No** : 10/554,752 : IMPROPERLY MEASURING REDUCTION  
**Filed** : 03/14/2006 : PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **605** 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).



04 SEP 2006

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

In re Application of BENALIMA et al.  
Application No.: 10/554,753  
PCT No.: PCT/FR03/03495  
Int. Filing: 26 November 2003  
Priority Date: 27 November 2002  
Attorney Docket No.:0528-1162  
For: READY TO INSTALL ELECTRODE  
SYSTEM FOR CARDIOVERSION AND  
ASSEMBLY OF SAID SYSTEM AND AN  
ENDOSCOPE

:  
:  
: DECISION ON  
:  
: PETITION TO REVIVE  
:  
: UNDER 37 CFR 1.137(b)  
:  
:

The petition to revive under 37 CFR 1.137(b) filed 28 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 \$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 **14 April 2006**.

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

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



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DAVID AKER  
23 SOUTHERN ROAD  
HARTSDALE, NY 10530

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OCT 17 2007

**OFFICE OF PETITIONS**

In re Application of  
Yongdong Wang  
Application No. 10/554,768  
Filed: October 28, 2005  
Attorney Docket No. CE-001US(PAR)

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 18, 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 November 28, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 1, 2007. A Notice of Abandonment was mailed on June 14, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of \$750.00, and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 2863 for appropriate action by the Examiner in the normal course of business on the reply received September 18, 2007.



Frances Hicks  
Petitions Examiner  
Office of Petitions



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SONNENSCHN NATH & ROSENTHAL LLP  
P.O. BOX 081080  
WACKER DRIVE STATION, SEARS TOWER  
CHICAGO, IL 60606-1080

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**MAY 01 2008**

**OFFICE OF PETITIONS**

In re Application of	:	
KAHN, et al.	:	
Application No. 10/554,774	:	DECISION ON PETITION
Filed: November 10, 2006	:	TO WITHDRAW
Attorney Docket No. 09761730-0033A	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 21, 2007.

The request is **APPROVED**.

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

The request was signed by David R. Metzger on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

  
Monica A. Graves  
Petitions Examiner  
Office of Petitions

cc: JONATHAN KAHN  
1108 CHEYENNE DRIVE  
CROWN POINT, IN 46307

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



**SMITH, GAMBRELL & RUSSELL**  
**1130 CONNECTICUT AVENUE, N.W.,**  
**SUITE 1130**  
**WASHINGTON DC 20036**

**MAILED**

**APR 08 2010**

In re Application of	:	<b>OFFICE OF PETITIONS</b>
Paul Allsop	:	
Application No. 10/554,790	:	<b>DECISION GRANTING PETITION</b>
Filed: October 28, 2005	:	<b>UNDER 37 CFR 1.313(c)(2)</b>
Attorney Docket No. 033335R029	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 6, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

*Petitioner is advised that the issue fee paid on March 16, 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.<sup>1</sup>*

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

This application is being referred to Technology Center AU 3754 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

<sup>1</sup> 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.

#3



06 NOV 2006

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION  
INTELLECTUAL PROPERTY & STANDARDS  
1109 MCKAY DRIVE, M/S-41SJ  
SAN JOSE CA 95131

In re Application of :  
ZIGER et al. :  
Application No.: 10/554,791 :  
Filing Date: 27 October 2005 : NOTIFICATION  
Attorney Docket No.: US030094US2 :  
For: SYSTEM AND METHOD FOR :  
CHARACTERIZING LITHOGRAPHY EFFECTS ON A :  
WAFER :

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371 and consideration of the submission of a petition to revive an international application unintentionally abandoned. The petition was filed on 19 December 2005 in the United States Patent & Trademark Office (USPTO).

**BACKGROUND**

On 27 April 2004, applicant filed international application PCT/IB04/01267, which claimed a priority date of 29 April 2003. The thirty month period for paying the basic national fee expired at midnight on 29 October 2005.

On 27 October 2005, applicant filed a transmittal letter for entry into the national stage in the United States which were accompanied by, *inter alia*, the U.S. Basic National Fee. The papers were assigned serial number 10/554,791 as the national stage of PCT/IB04/01267.

On 19 December 2005, applicant filed a second transmittal letter for entry into the national stage in the United States which were accompanied by, *inter alia*, the U.S. Basic National Fee along with a petition to revive an international application unintentionally abandoned. These papers were assigned serial number 10/561,576.

**DISCUSSION**

As is evident from the above recited facts, two sets of papers to enter the national stage were submitted for international application number PCT/IB04/01267 (United States application numbers 10/554,791 and 10/561,576). 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.<sup>1</sup>

<sup>1</sup> 35 U.S.C. 363 states:

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

Application No.: 10/554,791

The application papers filed on 19 December 2005 will be merged with U.S. application 10/554,791. Since the application is not abandoned, the petition to revive under 37 CFR 1.137(b) is considered moot.

**CONCLUSION**

The petition to revive under 37 CFR 1.137(b) is **DISMISSED as MOOT**.

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



Cynthia M. Kratz  
Attorney Advisor  
PCT Legal Office

Office of Patent Cooperation Treaty  
Legal Administration

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

---

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

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

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



29 JAN 2007

WORKMAN NYDEGGER  
(F/K/A WORKMAN NYDEGGER & SEELEY)  
60 EAST SOUTH TEMPLE  
1000 EAGLE GATE TOWER  
SALT LAKE CITY, UT 84111

In re Application of  
Golias  
Application No. 10/554,796  
PCT No.: PCT/AU03/01024  
Int. Filing Date: 13 August 2003  
Priority Date: 30 April 2003  
Atty. Docket No.: 16058.7  
For: A Wheeled Vehicle

COMMUNICATION

This is in response to the "Petition For Correction Of Filing Receipt And Notice Of Acceptance Of Application" filed on 25 August 2006.

**BACKGROUND**

International application PCT/AU03/01024 was filed on 13 August 2003, claimed an earliest priority date of 30 April 2003, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 11 November 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 31 October 2005 (since 30 October 2005 was a Sunday). Applicants filed, *inter alia*, the basic national fee on 28 October 2005.

On 08 August 2006, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicant, indicating the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) to be "10/28/2005." The Notice of Acceptance also showed an "I.A. Filing Date" of "11/11/2004."

**DISCUSSION**

Applicants filed correspondence, including a Transmittal Letter and a declaration of inventorship, on 28 October 2005. Inspection of the papers reveals a discrepancy in the international application number to which they are directed. Specifically, the Transmittal Letter is directed to international application number PCT/US03/01024, while the declaration is directed to international application number PCT/AU03/01024. Because of this discrepancy, it is not clear whether counsel intended the instant papers to be directed to the national stage of international application PCT/US03/01024, or to the national state of international application PCT/AU03/01024. A proper petition under 37 CFR 1.182 (and associated petition fee) is required in order to correct this discrepancy. Treatment of the petition to correct the filing receipt and Notice of Acceptance is being held in abeyance pending resolution of this matter. It would be appropriate for any such petition to be accompanied by corrected copies of the relevant document(s), as well as a showing as to how the discrepancy arose.

**CONCLUSION**

Applicants have **TWO (2) MONTHS** from the mailing date of this decision, extendable under 37 CFR 1.136(a), to file a response clarifying the status of the papers submitted on 28 October 2005.

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



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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

ADAMS AND REESE LLP  
4400 ONE HOUSTON CENTER  
1221 MCKINNEY  
HOUSTON TX 77010

**COPY MAILED**

**SEP 25 2009**

In re Application of

Didier Lecerf

**OFFICE OF PETITIONS**

Application No. 10/554,798

**DECISION ON PETITION**

Filed: April 25, 2006

Attorney Docket No. **10431-11**

This is a decision on the petition under 37 CFR 1.137(b), filed September 1, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed January 5, 2009. The final Office action set a shortened statutory period for reply of three months from its mailing date. A proper response was not received within the allowable period and the application became abandoned on July 6, 2009. A Notice of Abandonment was mailed on August 18, 2009.

The Request for Continued Examination filed September 1, 2009, is noted.

The application file is being forwarded to Technology Center, GAU 3663 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

  
Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions



22 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

Himanshu S. Amin  
Amin & Turocy, LLP  
24<sup>th</sup> Floor, National City Center  
1900 East Ninth Street  
Cleveland, HO 44114

In re Application of	:	
PAPADOPOULOS, Alexandros	:	
Application No.:10/554,802	:	DECISION ON PETITION
PCT No.: PCT/GR04/00019	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 02 April 2004	:	
Priority Date: 02 April 2003	:	
Attorney Docket No.: PROTP102WOUS	:	
For: HYBRID PHOTOVOLTAIC	:	
CONCENTRATING SYSTEM WITH	:	
CORRECTED TOTAL REFLECTORS	:	
FOR VERY LARGE CONCENTRATING	:	
RATIOS	:	

The petition to revive under 37 CFR 1.137(b) filed 14 June 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

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

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



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[www.uspto.gov](http://www.uspto.gov)

FRIEDRICH KUEFFNER  
317 MADISON AVENUE, SUITE 910  
NEW YORK NY 10017

12/12/08

In re Application of:  
SIEBEL, THOMAS  
Serial No.: 10/554,807  
Filed: Oct. 28, 2005  
Docket: BE-167PCT  
Title: KNEE JOINT PROSTHESIS

**Decision on Petition**

This is a decision on the letter filed on Jul. 2, 2007 requesting the acceptance of a duplicate response. This letter is being treated as a petition under 37 CFR § 1.181. No fee is required.

The petition is dismissed.

The application was held abandoned for failure to timely and properly reply to the Office action mailed Dec. 22, 2006. The Office action set a three (3) month period for reply. No response was received and no extensions of time under 37 CFR § 1.36(a) were requested. Accordingly the present application became abandoned on Mar. 23, 2007. Notice of abandonment was not mailed.

Petitioner asserts that a response to the Office action mailed on Dec. 22, 2006 with two months of extension of time fee was mailed on May 22, 2007. The response was not received by the USPTO.

Discussion and Analysis

In order to withdraw a holding of abandonment, the petitioner needs to comply with 37 CFR §1.8(b)<sup>1</sup>. The petitioner has met the requirements in subpart (1) only. Although petitioner has

<sup>1</sup> 37 CFR §1.8(b) states: In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence: (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

acknowledged that the original amendment filed on May 22, 2007 had an incorrect heading, serial number, filing date, title and Examiner's name. Only the inventor's name was correct in the amendment allegedly filed on May 22, 2007. Petitioner failed to provide sufficient evidence to support these alleged facts. A copy of the amendment filed on May 22, 2007 is requested so that the Office may locate this amendment. Petitioner failed to provide any proof of payment of extension of time. In addition, petitioner also failed to provide a certificate of mailing as required by 37 CFR § 1.8. It is noted that the petitioner has also failed to include a statement attesting to personal knowledge that the prior mailing of the amendment was in fact timely, as required by 37 CFR § 1.8(b)(3).

Accordingly, the request to accept the corrected amendment filed on Jul. 2, 2007 as the response to the Office Action of December 22, 2006 can not be granted without further proof as mentioned above.

#### Conclusion

Since the petitioner has not satisfied the requirements set forth by Sub-Parts (2) and (3) of the 37 CFR § 1.8(b), the petition is hereby dismissed. The holding of abandonment remains.

Any Request for Reconsideration of Petition along with the proof of payment of two months extension of time and necessary supporting documents must include a statement attesting to personal knowledge that the prior mailing of the amendment was timely must be made within TWO (2) MONTHS from the mail date of this decision under 37 CFR § 1.181(f). No 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 1.181". Alternatively, the applicant may wish to consider filing a petition to revive under 37 CFR 1.137(b). The rules and MPEP sections cited, along with the fees associated for each may be found on the USPTO website at: [www.uspto.gov](http://www.uspto.gov). Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner at (571)-272-4856.

PETITION DISMISSED

  
\_\_\_\_\_  
Robert Olszewski, Director  
Technology Center 3700



UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450  
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WILMERHALE/BOSTON  
60 STATE STREET  
BOSTON MA 02109

**COPY MAILED**  
**MAR 16 2010**

In re Patent No. 7,612,086 : DECISION ON REQUEST  
Graczyk, et al. : FOR  
Issue Date: November 3, 2009 : RECONSIDERATION OF  
Application No. 10/554,808 : PATENT TERM ADJUSTMENT  
Filed: October 19, 2006 : and  
Docket No. 0102286.00160US1 : NOTICE OF INTENT TO ISSUE  
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 27, 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 fifteen (615) 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 fifteen (615) days<sup>1</sup> is **GRANTED to the extent indicated herein.**

---

<sup>1</sup> The "B" delay period is 332 days, not 371 days. Patentees calculated this period based on the date this application was physically present in the Office. However, in an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). The priority date of this application is May 16, 2003. As early commencement was not requested, the national stage commenced in this application thirty months later on November 16, 2005. Thus, the "B" delay is 352 days, counting the number of days beginning on November 17, 2008 and ending on November 3, 2009, the date of issuance, minus the 30 days of overlap from April 18, 2009 to May 7, 2009. See 1.703(b).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred seventy-six (576) days**.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.



Anthony Knight  
Supervisory Petitions Examiner  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,612,086 B2

DATED : November 3, 2009

DRAFT

INVENTOR(S) : Graczyk, et al.

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

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 244 days

Delete the phrase "by 244 days" and insert – by 576 days--



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UNITED STATES DEPARTMENT OF COMMERCE  
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FOLEY AND LARDNER LLP  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

Mail Date: 04/21/2010

**Applicant** : Peter Kufer : DECISION ON REQUEST FOR  
**Patent Number** : 7635472 : RECALCULATION of PATENT  
**Issue Date** : 12/22/2009 : TERM ADJUSTMENT IN VIEW  
**Appliction No** : 10/554,852 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 04/04/2006 : ISSUE CERTIFICATE OF CORRECTION  
:

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

The patent term adjustment has been determined to be **551** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



# UNITED STATES PATENT AND TRADEMARK OFFICE

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OSTROLENK FABER GERB & SOFFEN  
1180 AVENUE OF THE AMERICAS  
NEW YORK, NY 100368403

Mail Date: 04/21/2010

Applicant : Jorn Stolting : DECISION ON REQUEST FOR  
Patent Number : 7608720 : RECALCULATION of PATENT  
Issue Date : 10/27/2009 : TERM ADJUSTMENT IN VIEW  
Application No : 10/554,880 : OF WYETH AND NOTICE OF INTENT TO  
Filed : 10/28/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

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

The patent term adjustment has been determined to be **854** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



DUANE MORRIS LLP – PHILADELPHIA  
IP DEPARTMENT  
30 SOUTH 17<sup>TH</sup> STREET  
PHILADELPHIA, PA 19103-4196

**COPY MAILED**

JUN 23 2009

**OFFICE OF PETITIONS**

In re Application of	:	
Ashok CHATUVEDI	:	
Application No. 10/554,892	:	DECISION ON PETITION
Filed: October 28, 2005	:	TO WITHDRAW
Attorney Docket No. E3566-00003	:	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 21, 2009.

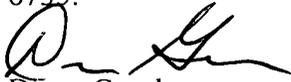
The request is **NOT APPROVED**.

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 there is no indication that all of the acts noted above have been performed.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.



Diane Goodwyn  
Petitions Examiner  
Office of Petitions

cc: ANAND AND ANAND  
B-41, NIZMUDDIN EAST  
NEW DELHI 110 013 INDIA



**DUANE MORRIS LLP – PHILADELPHIA  
IP DEPARTMENT  
30 SOUTH 17<sup>TH</sup> STREET  
PHILADELPHIA, PA 19103-4196**

**MAILED**

**JUL 21 2009**

**OFFICE OF PETITIONS**

In re Application of	:	
Ashok CHATURVEDI	:	
Application No. 10/554,892	:	DECISION ON PETITION
Filed: October 28, 2005	:	TO WITHDRAW
Attorney Docket No. E3566-00003	:	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, 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 Gerald K. Kita on behalf of the attorneys of record associated with Customer No. 08933.

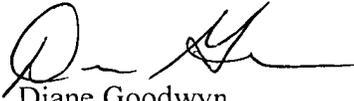
The attorneys of record associated with Customer No. 08933 have been withdrawn.

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

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

will be directed to the 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 571-272-6735.



Diane Goodwyn  
Petitions Examiner  
Office of Petitions

cc: ASHOK CHATURVEDI  
110, FIRST FLOOR  
BHANOT CORNER  
PAMPOSH ENCLAVE  
GREATER KAILASH-1  
NEW DELHI-110 043  
INDIA

cc: ANAND AND ANAND  
B-41 NIZMUDDIN EAST  
NEW DELHI 110 013  
INDIA



14 AUG 2006

John E. Pillion  
Entegris, Inc.  
129 Concord Road, Building 2  
Billerica, MA 01821

In re Application of	:	
WU, et al.	:	DECISION ON PETITION
Application No.: 10/554,897	:	
PCT No.: PCT/US04/12247	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 22 April 2004	:	
Priority Date: 22 April 2003	:	
Atty. Docket No.: 200300006	:	
For: PLEATED CONSTRUCTION FOR EFFECTING	:	
GAS TRANSFER MEMBRANE	:	

The petition to revive under 37 CFR 1.137(b) filed 28 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" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. In addition, applicant has presently provided all elements for entering the U.S. National stage.

The application has an international filing date of 22 April 2004 under 35 U.S.C. 363 and will be given a date of **28 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



19 FEB 2008

Ladas & Parry LLP  
224 South Michigan Avenue  
Suite 1600  
Chicago, IL 60604

In re Application of	:	
QIAN et al.	:	
Application No.: 10/554,902	:	DECISION ON REQUEST
PCT No.: PCT/CN04/00430	:	
Int. Filing Date: 29 April 2004	:	
Priority Date: 30 April 2003	:	
Attorney Docket No.: CU4493 RJS	:	
For: A RECOMBINANT VIRUS	:	
COMPRISING AN INTACT TUMOR-		
THERAPEUTIC ANTIBODY WITH		
HUMAN COSTA NT REGIONS AND		
USE THEREOF		

This decision is issued in response to the "Response to Notification of Defective Response & Request to Correct Inventorship in Non-Provisional Application (37 CFR 1.48(a))" filed 18 September 2007, which is being treated as a request under 37 CFR 1.497(d) to correct the inventorship of the present national stage application. Deposit Account No. 12-0400 will be charged the required processing fee.

**BACKGROUND**

On 29 April 2004, applicants filed international application PCT/CN04/00430 which claimed a priority date of 30 April 2003. The published international application identified two applicant/inventors for the United States: Qijun Qian and Qin Yang. The deadline for submission of the basic national fee was to expire thirty months from the priority date, 30 October 2005.

On 28 October 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 September 2006, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 08 November 2006, applicants submitted a declaration executed by: Qijun Qian; Qi Zhang; Qin Yang; and Mengchao Wu.

On 20 August 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration was defective because it indicated additional inventors not listed on the published international application.

On 18 September 2007, applicants filed the present request under 37 CFR 1.497(d) to add Qi Zhang and Mengchao Wu as an inventors.

### 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 inventors Qi Zhang and Mengchao Wu to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

(1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17; and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).

(4) any new oath or declaration required by paragraph (f) of this subsection.

With respect to the addition of Qi Zhang and Mengchao Wu to the application, applicants' 18 September 2007 submission satisfies requirements (1) and (2).

However, item (3) has not been satisfied. Specifically, applicants have not submitted a statement of consent from the purported assignee, Sino-Gene Biotechnology.

Further, the assignee has not established its ownership to the application in accordance with 37 CFR 3.73. (See Manual of Patent Examining Procedure (MPEP) §324 and Statement under 37 CFR 3.73(b). Therefore, applicants must provide a copy of the assignment or a specific reference to its recorded location in the United States Patent and Trademark Office (e.g., reel and frame number).

As to item (4), an oath or declaration by the actual inventors as required by 37 CFR 1.497(a) has been submitted.

Because applicants have not satisfied all the requirements of 37 CFR 1.497(d), inventors Qi Zhang and Mengchao Wu cannot be added to the application on the present record.

### CONCLUSION

Applicants' request to add inventors Qi Zhang and Mengchao Wu 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  
Attorney-Advisor  
Office of PCT Legal Administration  
Tel: (571) 272-3298  
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23 APR 2008

Ladas & Parry LLP  
224 South Michigan Avenue  
Suite 1600  
Chicago, IL 60604

In re Application of: QIAN et al. :  
Application No.: 10/554,902 :  
PCT No.: PCT/CN04/00430 :  
Int. Filing Date: 29 April 2004 :  
Priority Date: 30 April 2003 :  
Attorney Docket No.: CU4493 RJS :  
For: A RECOMBINANT VIRUS :  
      COMPRISING AN INTACT TUMOR- :  
      THERAPEUTIC ANTIBODY WITH :  
      HUMAN COSTANT REGIONS AND :  
      USE THEREOF :

DECISION ON REQUEST

In a decision mailed by this Office on 19 February 2008, applicants' request to correct inventorship was dismissed without prejudice for failure to satisfy all the requirements of 37 CFR 1.497(d). Specifically, applicants had not provided the required consent of the assignee to the requested change in inventorship.

On 18 April 2008, applicants filed the renewed request under 37 CFR 1.497(d) considered herein. Applicants state in the renewed request that the original inventors did not execute an assignment and that a consent of the assignee is not required. Item (3) is therefore satisfied. Accordingly, applicants have now satisfied all the requirements to correct the inventorship herein.

Applicants' request to correct inventorship under 37 CFR 1.497(d) is **GRANTED**.

The inventorship herein is corrected to add Qi Zhang and Mengchao Wu as additional inventors of record. Based on this correction, the declaration filed 08 November 2006 is now acceptable under 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 08 November 2006.

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



# UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office  
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www.uspto.gov

Pearl Cohen Zedek Latzer, LLP  
1500 Broadway  
12th Floor  
New York, NY 10036

Mail Date: 04/21/2010

<b>Applicant</b>	: Anat Shirvan	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7605182	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/554,926	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 10/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **721** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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

Mail Date: 04/21/2010

**Applicant** : Yasuhide Takao : DECISION ON REQUEST FOR  
**Patent Number** : 7632477 : RECALCULATION of PATENT  
**Issue Date** : 12/15/2009 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/554,949 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 01/26/2006 : ISSUE CERTIFICATE OF CORRECTION  
:

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

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



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

**COPY MAILED**

**JUN 26 2008**

**OFFICE OF PETITIONS**

In re Application of

**DORN, Jurgén**

Application No. 10/554,964

Filed: December 15, 2005

Attorney Docket No. **1016710009P**

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**DECISION ON PETITION  
TO WITHDRAW  
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 23, 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 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 the undersigned at (571) 272-7253.

  
Monica A. Graves  
Petitions Examiner  
Office of Petitions

cc: **RUTAN & TUCKER, LLP**  
**611 ANTON BOULEVARD, SUITE 1400**  
**COSTA MESA, CA 92626**

01 JUN 2007



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FISH & RICHARDSON P.C.  
225 FRANKLIN STREET  
BOSTON, MA 02110-2804

In re Application of :  
HÖSS, Wolfgang : DECISION ON  
Application No.: 10/554,970 :  
PCT No.: PCT/EP04/01615 : PETITION  
Int. Filing Date: 19 February 2004 :  
Priority Date: 28 April 2003 : UNDER 37 CFR 1.47(b)  
Attorney's Docket No.: 14603-016US1 P2003,0256US :  
For: FLIP-FLOP CIRCUIT ASSEMBLY :

This decision corrects the erroneous application and background information of the decision mailed 15 May 2007. The period to respond to this decision is reset to start with the mailing date of this decision.

This is a decision on applicant's "Petition Under 37 C.F.R. 1.47(b)," filed in the United States Patent and Trademark Office on 05 February 2007 on behalf of the assignee and the non-signing inventor Wolfgang Höss. The petition under 37 CFR 1.47(b) is DISMISSED.

BACKGROUND

On 19 February 2004, applicant filed international application PCT/EP04/01615, claiming a priority date of 28 April 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 October 2005.

On 27 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 05 September 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) and the surcharge for late filing of the oath or declaration were required.

On 05 February 2007, applicant submitted the declaration, the surcharge for late filing of the declaration, a three-month extension fee, the present petition under 37 CFR 1.47(b) requesting acceptance of the application without the signature of the applicant and, a "Statement of Facts" to support the petition.

### DISCUSSION

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

With regard to item (1), in view of petitioner's authorization, the requisite fee of \$200 under 37 C.F.R. 1.17(g) has been charged to petitioner's Deposit Account No. 06-1050.

With regard to item (2), the copies of letters mailed by Mr. Martin Brand and Mr. Wilhelm Epping, the declarations of Ms. Tabea Strassner and Mrs. Karin Kammerer-Feigs and, the copies of the delivery receipts are appropriate to show that non-signing inventor Wolfgang Höss refuses to execute the application.

With regard to item (3), the "Statement of Facts" lists the last known address of non-signing inventor Wolfgang Höss as: Dr.-Lemischstrasse 15, A-8054 Graz, Austria.

With regard to item (4), the declaration executed by the 37 CFR 1.47(b) complies with 37 C.F.R. 1.497(a)-(b).

With regard to item (5), the copy of non-signing inventor Wolfgang Höss's employment agreement satisfies the requirements of 37 C.F.R. 1.47(b). However, petitioner has not provided a statement by a person having firsthand knowledge showing that that the invention was made by the employee while employed by the 37 C.F.R. 1.47(b) applicant. MPEP 409.03(f).

With regard to item (6), petitioner has demonstrated that irreparable harm will result if the application is not permitted to proceed.

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

### CONCLUSION

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

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

should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

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



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29 AUG 2007

FISH & RICHARDSON P.C.  
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BOSTON, MA 02110-2804

In re Application of :  
HÖSS, Wolfgang : DECISION ON  
Application No.: 10/554,970 :  
PCT No.: PCT/EP04/01615 : PETITION  
Int. Filing Date: 19 February 2004 :  
Priority Date: 28 April 2003 : UNDER 37 CFR 1.47(b)  
Attorney's Docket No.: 14603-016US1 P2003,0256US :  
For: Flip-Flop Circuit Assembly :

This is a decision on applicant's "Renewed Petition Under 37 C.F.R. 1.47(b) To Proceed Without Signature Of The Sole Inventor," filed in the United States Patent and Trademark Office on 01 August 2007, on behalf of the assignee and the non-signing inventor Wolfgang Höss.

#### BACKGROUND

On 19 February 2004, applicant filed international application PCT/EP04/01615, claiming a priority date of 28 April 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 October 2005.

On 27 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 05 September 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) and the surcharge for late filing of the oath or declaration were required.

On 05 February 2007, applicant submitted the declaration, the surcharge for late filing of the declaration, a three-month extension fee, a petition under 37 CFR 1.47(b) requesting acceptance of the application without the signature of the applicant and, a "Statement of Facts" to support the petition.

On 01 June 2007, the Office mailed "Decision on Petition under 37 CFR 1.47(b)" dismissing applicants' petition without prejudice. The Decision stated that the evidence provided was not sufficient to support the conclusion that the invention was made by Mr. Wolfgang Höss while employed by the 37 CFR 1.47(b) applicant.

On 01 August 2007, applicant filed the instant renewed petition under 37 CFR 1.147(b) on behalf of the assignee and the non-signing inventor Wolfgang Höss including, a declaration by Mr. Bernd Gessner, General Manager of the Automotive Business Unit of the assignee.

### DISCUSSION

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

With the filing of applicant's renewed petition, applicant has satisfied items (1) through (6) above. The declaration of Mr. Bernd Gessner, General Manager of the Automotive Business Unit of the assignee, is a statement by a person having firsthand knowledge that the invention described in the instant application was made by Mr. Wolfgang Höss while employed by the 37 CFR 1.47(b) applicant. Together with the employment agreement of Mr. Wolfgang Höss, filed on 05 February 2007, the declaration of Mr. Bernd Gessner is sufficient evidence to support the conclusion that the invention described in the instant application was made by Mr. Wolfgang Höss while employed by the 37 CFR 1.47(b) applicant.

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

### CONCLUSION

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

This application has an International Filing Date of 19 February 2004 and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 05 February 2007.

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

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

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



Leonard Smith  
PCT Legal Examiner  
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Applicant: Hoss  
Appl. No.: 10/554,970  
Filing Date: October 27, 2005  
Title: FLIP-FLOP CIRCUIT ASSEMBLY  
Attorney Docket No.: 14603-016US1 P2003.0256US  
Pub. No.: US 2007/0146030 A1  
Pub. Date: June 28, 2007

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**OFFICE OF PETITIONS**

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 27, 2007, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the application wherein the inventor's last name Höss is misprinted as Hoss.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected 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.<sup>1</sup>

The error noted by requestor wherein the inventor's last name Höss is misprinted as Hoss may be an Office error under 37 CFR 1.221(b). The mistake in the inventor's name is a minor typographical error, which does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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

<sup>1</sup>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 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

24 APR 2006

#3



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COLIN MACCALLUM  
4996 BELLA-VISTA CRESCENT  
NANAIMO, BRITISH COLUMBIA  
V9V 1M5  
CANADA

In re Application of	:	
MACCALLUM et al.	:	
Application No.: 10/554,976	:	DECISION
PCT No.: PCT/CA04/00729	:	
Int. Filing Date: 17 May 2004	:	
Priority Date: 29 May 2003	:	
Attorney Docket No.: None	:	
For: METHOD AND APPARATUS FOR A	:	
SIMPLIFIED PRIMARY AIR SYSTEM FOR	:	
IMPROVING FLUID FLOW AND GAS MIXING	:	
IN RECOVERY BOILERS	:	

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

**BACKGROUND**

On 17 May 2004, applicant filed international application PCT/CA04/00729, which claimed a priority date of 29 May 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 09 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 29 November 2005.

On 27 October 2005, applicant filed a TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, and a declaration of the inventors. These application papers were assigned application number 10/554,976.

On 15 November 2005, applicant filed a second TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, and a declaration of the inventors. These application papers were temporarily assigned application number 10/556,889.

### DISCUSSION

As is evident from the above recited facts, applicant submitted two sets of papers to enter the national stage for the same international application. The submission of two sets of national stage papers to enter the United States is improper.

35 U.S.C. 363 states:

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

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

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

The language of 35 U.S.C. 363 and 371 refers to the national stage of the PCT in the singular only, and thus only one (1) national stage application in the U.S. may develop from an international application. The Transmittal Letters filed 27 October 2005 and 15 November 2005 indicate that each submission is "concerning a filing under 35 U.S.C. 371" of PCT/CA04/00729. No conflicting instructions appear in the application papers. Accordingly, each submission should have been treated as a national stage application submitted under 35 U.S.C. 371. In that only one national stage of a PCT application is permitted, it would have been proper for all of the submissions to be placed in a single application and assigned a single application number. Accordingly, all of the papers filed on 27 October 2005 and 15 November 2005 have been placed in application number **10/554,976**.

Applicant should use application number **10/554,976** in all future communications with the Patent and Trademark Office in regards to the U.S. national stage of international application PCT/CA04/00729.

### Declaration of Inventors

The declaration of the inventors filed 27 October 2005 is in compliance with 37 CFR 1.497(a)-(b).

### Fees

The payments of \$1,145 for the application papers filed 15 November 2005 will be refunded.

### CONCLUSION

For the reasons set forth above, the submission filed 27 October 2005 and the submission filed 15 November 2005 have been placed in the file of application number **10/554,976**.

For the reasons set forth above, the application papers filed 27 October 2005 will be processed in application number **10/554,976** as the national stage application of PCT/CA04/00729.

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

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



Daniel Stemmer

Legal Examiner

PCT Legal Affairs

Office of Patent Cooperation Treaty

Legal Administration

Telephone: (571) 272-3301

Facsimile: (571) 273-0459



# UNITED STATES PATENT AND TRADEMARK OFFICE

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ALSTON & BIRD LLP  
BANK OF AMERICA PLAZA  
101 SOUTH TRYON STREET, SUITE 4000  
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant : Willi Kussel : DECISION ON REQUEST FOR  
Patent Number : 7659675 : RECALCULATION of PATENT  
Issue Date : 02/09/2010 : TERM ADJUSTMENT IN VIEW  
Application No : 10/554,979 : OF WYETH AND NOTICE OF INTENT TO  
Filed : 09/21/2006 : ISSUE CERTIFICATE OF CORRECTION  
:

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

The patent term adjustment has been determined to be **811** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



1 6 AUG 2007

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23416  
CONNOLLY BOVE LODGE & HUTZ, LLP  
P.O. Box 2207  
Wilmington, DE 19899

In re Application of :  
CAMPENON *et al* :  
U.S. Application No.: 10/554,985 :  
PCT No.: PCT/EP04/050654 :  
Int. Filing Date: 29 April 2004 :  
Priority Date: 30 April 2003 :  
Attorney Docket No.: 13332-00008-US :  
For: ADDITIVE TANK FOR FUEL SYSTEM :  
AND PRODUCTION METHOD :  
THEREOF :

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

Applicants' petition to revive under 37 CFR 1.137(b) filed on 16 July 2007 is hereby **GRANTED** as follows:

An English translation of the international publication has been provided. The petition fee and processing 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.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 29 April 2004 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 16 July 2007.

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

  
James Thomson  
Attorney Advisor  
Office of PCT Legal Administration

Tel.: (571) 272-3302



14 AUG 2006

Paul T. Bowen  
Nixon & Vanderhye, P.C.  
901 North Glebe Road, 11<sup>th</sup> Floor  
Arlington, VA 22203-1808

In re Application of	:	
LLOYD	:	
Application No.: 10/554,987	:	
PCT No.: PCT/AU03/01698	:	DECISION ON PETITION
Int. Filing Date: 19 December 2003	:	
Priority Date: 20 December 2002	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 4388-13	:	
For: PROCESS FOR PURIFYING INORGANIC	:	
MATERIALS	:	

The petition to revive under 37 CFR 1.137(b) filed 28 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" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided a payment of the full U.S. Basic National fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 14 June 2006 with the filing of an executed declaration of the inventor.

The application has an international filing date of 19 December 2003 under 35 U.S.C. 363 and will be given a date of **14 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 (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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,000	10/31/2005	Edward Gobina	R146 1010US	9198

26158                      7590                      07/31/2009  
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC  
ATTN: PATENT DOCKETING  
P.O. BOX 7037  
ATLANTA, GA 30357-0037

EXAMINER
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VADEN, KENNETH I

ART UNIT	PAPER NUMBER
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1793

MAIL DATE	DELIVERY MODE
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07/31/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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Mailed: JUL 31 2009

wk

In re application of  
Gobina et al.

Serial No. 10/555,000

Filed: 10/31/2005

For: Membrane Apparatus and Method of Preparing A  
Membrane and a Method of Producing Hydrogen

:  
: DECISION ON  
: PETITION  
:

This is a decision on a PETITION filed June 1, 2009, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

**DECISION**

Petitioner requests that the Deed of Variation of License Agreement, recorded on May 5, 2009 be expunged from the file history record. A review of current application does not show the aforementioned document in the application file. Applicants did file a 37 CFR 3.73(b) statement in the file.

Assignments and related documents are not generally placed into application files. Questions regarding assignments may be directed to the Assignment Services Division Customer Service Desk at 571-272-3350

The petition is **DISMISSED**.

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

11/471,349

Amy H. Fix  
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC  
ATTN: PATENT DOCKETING  
P.O. BOX 7037  
ATLANTA GA 30357-0037



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

**MAILED**

JUN 22 2010

**OFFICE OF PETITIONS**

In re Patent No. 7,641,888 :  
Issue Date: January 5, 2010 :  
Application No. 10/555,000 : **DECISION ON PETITION**  
Filed: October 31, 2005 :  
Attorney Docket No. R146 1010US :

This is a decision on the Correction Of Errors In Patent Under 37 CFR 1.323 Certificate Of Correction Of Applicant's Mistake, filed on April 6, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. The Request is being treated as a Petition Under 37 CFR 3.81(b). A completed Certificate of Correction Form (PTO/SB/44) was submitted with the petition.

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

Petitioner requests that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and that such error was applicant's mistake. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct name of the assignee's name identified thereon from:

"Gas2 Limited"

to:

--The Robert Gordon University --

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(h), have been accompanied deposit account authorization to charge any required fees. As such, the fees have been charged as authorized. Further, Office assignment records are consistent with the requested correction. Accordingly, 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 present 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. 7,641,888.



Cheryl Gibson-Baylor  
Petitions Examiner  
Office of Petitions



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

Mail Date: 04/20/2010

<b>Applicant</b>	: Panayotis Verdes	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7600756	: RECALCULATION of PATENT
<b>Issue Date</b>	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/555,013	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 10/10/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **542** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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Barbara A. Shimei  
Director, Patents & Licensing  
Bayer HealthCare LLC - Pharmaceuticals  
555 White Plains Road, Third Floor  
Tarrytown, NY 10591

Mail Date: 04/21/2010

<b>Applicant</b>	: Xin Ma	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7592361	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/555,024	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 10/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

28 MAR 2007



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Washington, D.C. 20231  
www.uspto.gov

Betsy Kingsbury Dowd  
Goodwin Procter, LLP  
599 Lexington Avenue  
New York, NY 10022

In re Application of :  
KOH, et al. : DECISION ON PETITION  
Serial No.: 10/555,027 :  
PCT No.: PCT/SG03/00229 : UNDER 37 CFR 1.47(a)  
Int. Filing Date: 24 September 2003 :  
Priority Date: 24 September 2003 :  
Atty Docket No.: 802NP :  
For: CMP SLURRY STRAINER :

This decision is in response to applicant's petition under 37 C.F.R. § 1.47 filed 05 March 2007 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor Meng Fei KOH.

### BACKGROUND

On 24 September 2003, applicant filed international application PCT/SG03/00229. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 31 March 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 23 March 2006.

On 27 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 05 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 accompanied by payment of the surcharge for providing an executed oath or declaration of the inventors later than thirty months from the priority 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 26 September 2006, applicant filed a declaration and payment of the appropriate surcharge.

On 20 October 2006, applicant was mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) informing applicant that the filed declaration did not comply with 37 CFR 1.497 (a) and (b) and thus was not a proper response to the Form PCT/DO/EO/905 mailed 05 September 2006. Applicant was afforded one month from the mailing of the Form PCT/DO/EO/916 or the extendable time remaining in the response period set forth in the Form PCT/DO/EO/905, whichever was longer.

On 05 March 2007, applicant filed the present petition under 37 CFR 1.47(a) accompanied by payment of a five-month extension of time fee of \$2160 and \$130.00 surcharge fee.

### DISCUSSION

Applicant is advised that the extension of time fee calculation is from the deadline of the Form PCT/DO/EO/905 mailed 05 September 2006; namely 05 November 2006. As such, only a four-month extension of time fee of \$1590 was required. In addition, applicant previously paid the \$130.00 late declaration surcharge fee. Applicant is required to provide payment of the \$200.00 petition fee for consideration of the present petition pursuant to 37 CFR 1.17(g). In sum, applicant authorized the deduction of \$2290 from deposit account 06-0923. \$1790 was required; therefore, \$500.00 will be credited to deposit account number 06-0923.

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

Regarding item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature."

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47... The statement of facts must be signed, where at all

possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as Internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should include a statement of facts. It is important that the statement contain facts as opposed to conclusions.

In support of the petition applicant has merely included a statement from counsel that numerous good faith efforts were made to contact the non-signing inventor. As shown above, this is not sufficient for the purposes of 37 CFR 1.47.

In light of the above, it is not possible to grant applicant's petition at this time.

**CONCLUSION**

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

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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



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

03/27/2007 SBASHEIR 00000002 060923 10555027

01 FC:1463 200.00 DA  
02 FC:1254 1590.00 DA



03 JUL 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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Betsy Kingsbury Dowd  
Goodwin Procter, LLP  
599 Lexington Avenue  
New York, NY 10022

In re Application of	:	
KOH, et al.	:	DECISION ON RENEWED
Serial No.: 10/555,027	:	
PCT No.: PCT/SG03/00229	:	PETITION UNDER
Int. Filing Date: 24 September 2003	:	
Priority Date: 24 September 2003	:	37 CFR 1.47(a)
Atty Docket No.: 802NP	:	
For: CMP SLURRY STRAINER	:	

This decision is in response to applicant's renewed petition under 37 C.F.R. § 1.47 filed 22 June 2007 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor Meng Fei KOH.

**BACKGROUND**

On 28 March 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration.

On 22 June 2007, applicant filed the present renewed petition under 37 CFR 1.47(a). As authorized, payment of a one-month extension of time fee of \$120.00 will be charged to deposit account number 06-0923. The response is therefore considered timely filed.

**DISCUSSION**

As detailed in the decision mailed 28 March 2007, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint 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 supporting documentation, applicant has made a satisfactory showing that notwithstanding a diligent effort, the non-signing inventor cannot be located.

In light of the above, it is proper to grant applicant's renewed petition at this time.

**CONCLUSION**

For the reasons discussed above, applicant's renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 24 September 2003 under 35 U.S.C. 363, and will be given a date of **05 March 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known addresses of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

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



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

07/03/2007 SBASHEIR 00000001 060923 10555027  
Sale Ref: 00000001 DA#: 060923 10555027  
01 FC:1251 120.00 DA



1 8 APR 2008

Hewlett Packard Company  
P O Box 272400, 3404 E. Harmony Road  
Intellectual Property Administration  
Fort Collins, CO 80527-2400

In re Application of	:	
FEYGELMAN, Alex	:	
Application No.: 10/555,032	:	DECISION ON PETITION
PCT No.: PCT/IL03/00351	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 30 April 2003	:	
Priority Date: None	:	
Attorney Docket No.: 200300226-3	:	
For: DECURLER AND STABILIZER FOR	:	
LIGHT-WEIGHT PAPERS	:	

The petition to revive under 37 CFR 1.137(b) filed 08 April 2008 in the above-captioned application is hereby **GRANTED** as follows:

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

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

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

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



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

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**MAR 19 2008**

**OFFICE OF PETITIONS**

In re Application of :  
Dinnel, et al. :  
Application No. 10/555,034 : ON PETITION  
Filed: October 27, 2005 :  
Attorney Docket No. T1605YP :

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION", filed February 11, 2008, which is being treated as a petition under 37 CFR 1.181, or in the alternative under 37 CFR 1.137(b).

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

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

The above application became abandoned for failure to file a reply to the non-final Office action mailed June 20, 2007. The Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on September 21, 2007. The Office mailed a Notice of Abandonment on January 20, 2008.

Petition to Withdraw the Holding of Abandonment under 1.181:

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.<sup>1</sup> A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."<sup>2</sup> "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."<sup>3</sup>

Here, the docket record submitted on petition is only a summary of the prosecution history for the instant application. As set forth above, to establish that the June 20, 2007 Office action was not received, petitioner would need to have submitted a docket record showing all of his replies docketed for the due date of September 20, 2007.

Petition to Revive under 1.137(b):

With the instant petition, applicants paid the petition fee, submitted the required reply in the form of an Amendment, and made a 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. The statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3). The statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition fee of \$1540 has been charged to Deposit Account No. 13-2755, as authorized.

---

<sup>1</sup> See MPEP 711.03(c)(II).

<sup>2</sup> MPEP 711.03(c)(II) (emphasis added).

<sup>3</sup> Id.

The matter is being forwarded to Group Art Unit 1624 for consideration of the Amendment filed February 11, 2008.

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

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo  
Petitions Attorney  
Office of Petitions



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

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**MAR 24 2008**

**OFFICE OF PETITIONS**

Applicant: Dinnell et al.  
Appl. No.: 10/555,034  
Filing Date: May 7, 2004  
Title: CYCLOHEXYL SULPHONES AS GAMMA-SECRETASE INHIBITORS  
Attorney Docket No.: T1605YP  
Pub. No.: US 2006/0281737-A1  
Pub. Date: December 14, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 14, 2007, for the above-identified application.

The request is DISMISSED.

Applicants request that the application be republished because Karl Richard Gibson, Timothy Harrison, Richard Alexander Jelley, Alan John Nadin, Paul Joseph Oakley, Andrew Pate Owens, Duncan Edward Shaw, and Brian John Williams were not listed as inventors on the front page of the patent application publication.

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

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

Applicants are advised that a “request for republication of an application previously published” may be filed under 37 CFR 1.221(a). Such a request for republication “must include a copy of the application in compliance with the Office electronic filing system requirements and be

<sup>1</sup>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).

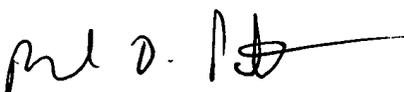
accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i).” If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. 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 any questions or request for reconsideration of the decision should be addressed as follows:

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

By facsimile: 571-273-8300

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



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



BACHMAN & LAPOINTE, P.C.  
900 CHAPEL STREET  
SUITE 1201  
NEW HAVEN, CT 06510

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**APR 03 2008**

**OFFICE OF PETITIONS**

Applicant: Emig et al.

Appl. No.: 10/555,040

Filing Date: August 31, 2005

Title: PREPARATION, IN PARTICULAR COSMETIC PREPARATION, PROCESS FOR THE PRODUCTION THEREOF AND USE THEREOF

Attorney Docket No.: 05-549-CIP

Pub. No.: US 2007/0009450-A1

Pub. Date: January 11, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on April 26, 2007, for the above-identified application.

The request is DISMISSED.

Applicants request that the application be republished because Sonja Engelhardt and Sabine Hargrave were not listed as inventors on the front page of the patent application publication.

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

The request for corrected publication, received on April 26, 2007, was not timely filed under 37 CFR 1.221(b).

Applicants are advised that a “request for republication of an application previously published” may be filed under 37 CFR 1.221(a). Such a request for republication “must include a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i).” If the request for republication does not comply with the electronic filing system

---

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

requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

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

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

By facsimile: 571-273-8300

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



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



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HOXIE & ASSOCIATES LLC  
75 MAIN STREET , SUITE 301  
MILLBURN, NJ 07041

Mail Date: 04/21/2010

Applicant : Hamed Aissaoui : DECISION ON REQUEST FOR  
Patent Number : 7538109 : RECALCULATION of PATENT  
Issue Date : 05/26/2009 : TERM ADJUSTMENT IN VIEW  
Application No : 10/555,061 : OF WYETH  
Filed : 10/28/2005 :  
:  
:

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.



15 DEC 2006

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PILLSBURY WINTHROP SHAW PITTMAN, LLP  
P.O. BOX 10500  
MCLEAN, VA 22102

In re Application of GOLAN	:	
U.S. Application No.: 10/555,071	:	
PCT Application No.: PCT/IL2004/000354	:	DECISION
Int. Filing Date: 28 April 2004	:	
Priority Date Claimed: 29 April 2003	:	
Attorney Docket No.: 524283-0319040 (B&B-137)	:	
For: A METHOD AND APPARATUS FOR	:	
PROVIDING EMBOSSED HIDDEN	:	
IMAGES	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 29 September 2006.

**BACKGROUND**

On 28 April 2004, applicant filed international application PCT/IL2004/000354, which claimed priority of an earlier Israel application filed 29 April 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 11 November 2004. The thirty-month period for paying the basic national fee in the United States expired on 29 October 2005.

On 28 October 2005, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by the basic national fee required by 35 U.S.C. 371(c)(1).

On 24 August 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned as to the United States for failure to timely pay the basic national fee.

On 29 September 2006, applicant filed the present petition under 37 CFR 1.137(b).

**DISCUSSION**

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

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

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

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

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

**CONCLUSION**

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

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



Bryan Lin  
PCT Legal Examiner  
PCT Legal Office

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



RUTAN & TUCKER, LLP.  
611 ANTON BLVD  
SUITE 1400  
COSTA MESA CA 92626

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OCT 01 2008

In re Application of  
**MAK, John et al.**  
Application No. 10/555,079  
Filed: October 12, 2006  
Attorney Docket No. 100325.0208US

DECISION ON PETITION  
TO WITHDRAW  
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 11, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed.

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

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason  
Paralegal Specialist  
Office of Petitions

cc: **ROBERT FISH  
FISH & ASSOCIATES, PC  
2603 MAIN STREET  
SUITE 1050  
IRVINE, CA 92614**



**RUTAN & TUCKER, LLP.**  
611 ANTON BLVD  
SUITE 1400  
COSTA MESA CA 92626

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**NOV 10 2008**

In re Application of  
**MAK, John et al.**  
Application No. 10/555,079  
Filed: October 12, 2006  
Attorney Docket No. **100325.0208US**

DECISION ON PETITION  
TO WITHDRAW  
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 07, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Todd W. Wight on behalf of all attorneys of record who are associated with customer No. 34284. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

*Michelle R. Eason*  
Michelle R. Eason  
Paralegal Specialist  
Office of Petitions

cc: **JOHN MAK**  
2242 SALT AIR DRIVE  
SANTA ANA, CA 92705

cc: **ROBERT FISH**  
FISH & ASSOCIATES, PC  
2603 MAIN STREET  
SUITE 1050  
IRVINE, CA 92614



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ASTRAZENECA R&D BOSTON  
35 GATEHOUSE DRIVE  
WALTHAM, MA 02451-1215

Mail Date: 06/03/2010

**Applicant** : Laurent Francois Andre Hennequin : DECISION ON REQUEST FOR  
**Patent Number** : 7659279 : RECALCULATION of PATENT  
**Issue Date** : 02/09/2010 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/555,085 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 10/31/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

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

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



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MCDERMOTT WILL & EMERY LLP  
600 13TH STREET, N.W.  
WASHINGTON, DC 20005-3096

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OCT 08 2008

In re Application of	:	<b>OFFICE OF PETITIONS</b>
RAINS JR, et al.	:	
Application No. 10/555,094	:	DECISION GRANTING PETITION
Filed: November 2, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 049480-0065	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 7, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

*Petitioner is advised that the issue fee paid on September 15, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.<sup>1</sup>*

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

This application is being referred to Technology Center AU 2875 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

<sup>1</sup> 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.*



Docket No.: 049480-0065

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of : Customer Number: 20277  
: :  
Jack C. RAINS, Jr., et al. : Confirmation Number: 9364  
: :  
Application No.: 10/555,094 : Group Art Unit: 2875  
: :  
Filed: November 02, 2005 : Examiner: A. Ton  
: :  
For: **PRECISE REPEATABLE SETTING OF COLOR CHARACTERISTICS FOR  
LIGHTING APPLICATIONS**

**REQUEST TO APPLY PREVIOUSLY PAID ISSUE FEE**

Mail Stop **ISSUE FEE**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant is in receipt of the Decision Granting Petition Under 37 CFR 1.313(c)(2), dated October 8, 2008, in connection with the above-identified application and respectfully requests that the Issue Fee paid on September 15, 2008, be applied to the attached new Issue Fee Transmittal..

A copy of the Decision is attached.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

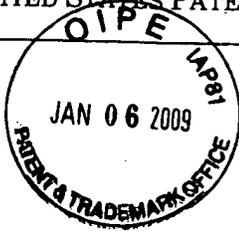
Keith E. George  
Registration No. 34,111

600 13<sup>th</sup> Street, N.W.  
Washington, DC 20005-3096  
Phone: 202.756.8000 KEG:kh  
Facsimile: 202.756.8087  
**Date: January 6, 2009**

**Please recognize our Customer No. 20277  
as our correspondence address.**



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MCDERMOTT WILL & EMERY LLP  
600 13TH STREET, N.W.  
WASHINGTON, DC 20005-3096

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OCT 08 2008

**OFFICE OF PETITIONS**

In re Application of  
RAINS JR, et al.  
Application No. 10/555,094  
Filed: November 2, 2005  
Attorney Docket No. 049480-0065

DECISION GRANTING PETITION  
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 7, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

*Petitioner is advised that the issue fee paid on September 15, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.<sup>1</sup>*

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

This application is being referred to Technology Center AU 2875 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

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



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04 AUG 2006

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Alexandria, VA 22313-1450

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

In re Application of:	:	
CHEN, Hai-Wen	:	DECISION ON PETITION
U.S. Application No.: 10/555,104	:	UNDER 37 CFR 1.137(b)
Int'l Application No: PCT/US2004/008345	:	
Int'l Filing Date: 18 March 2004	:	
Priority Date: 21 March 2003	:	
Attorney Docket No.: 4358-0113PUS2	:	
For: TARGET DETECTION	:	
IMPROVEMENTS USING TEMPORAL	:	
INTEGRATIONS AND SPATIAL	:	
FUSION	:	

The petition to revive under 37 CFR 1.137(b) filed 02 November 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" 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.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497.

Richard M. Ross  
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United States Patent and Trademark Office  
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**OCT 21 2009**

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

In re Application of :  
Andersch et al. :  
Serial No.: 10/555,105 :DECISION ON PETITION  
IA Filing Date: 20 April 2004 :  
Attorney Docket No.: ANDRESCH=1 :

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 30 September 2009.

## **BACKGROUND**

This application was filed as a national stage application in compliance with 35 USC 371 and as such is subject to PCT unity of invention rules.

On 16 June 2008, claims 1-6, 8-11 were pending and all were rejected in a non-final Office action. The examiner had not required an election of an invention or a species.

On 16 September 2008, applicants filed an amendment which added new claim 12.

On 19 February 2009, claims 1-6, 8-12 were pending. Claims 1-6 and 8-11 were rejected in a final Office action. New claim 12 was not addressed.

On 21 August 2009, claims 1-6, 8-12 were pending. Claims 1-6 and 8-11 were rejected in a supplemental final Office action. New claim 12 was withdrawn from consideration as being independent or distinct from the invention as originally claimed. The examiner stated that the core structures of claim 12 are distinct from the other species of the independent claims.

On 30 September 2009, applicants filed this petition under consideration.

## DISCUSSION

The petition and file history have been carefully considered, with respect to the claims as currently pending.

Before turning to the merits of the petition, a few irregularities are noted in the prosecution history.

This national stage filing is entitled to PCT Unity of Invention practice with regard to any restriction or election of species requirement.

In withdrawing claim 12 from examination, the examiner failed to follow the criteria of PCT Rule 13.2 to evaluate Claim 12 in terms of same or corresponding technical features. Instead, the examiner turned to US restriction practice to conclude that the dependent claims were directed to an independent and distinct invention. This is not proper.

In withdrawing Claim 12 from examination, the examiner appears to be taking the position that the technical feature of the composition of independent Claim 1 is either a compound from Group 1 or a compound from Group 2, as described by dependent claim 12. This is incorrect. The composition of Claim 1 requires both a compound from Group 1 and a compound from Group 2. A requirement to elect either a Group 1 compound or a Group 2 compound would be inconsistent with International Search and Preliminary Examination Guidelines because both features are requirement by the composition of independent Claim 1. ISPE Guidelines Paragraph 10.07 states:

*If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims. In particular, it does not matter if a dependent claim itself contains a further invention. For example, suppose claim 1 claims a turbine rotor blade shaped in a specified manner, while claim 2 is for a "turbine rotor blade as claimed in claim 1" and produced from alloy Z. Then no objection under Rule 13 arises either because alloy Z was new and its composition was not obvious and thus the alloy itself already contains the essential features of an independent possibly later patentable invention, or because, although alloy Z was not new, its application in respect of turbine rotor blades was not obvious, and thus represents an independent invention in conjunction with turbine rotor blades.*

As set forth in ISPE Guidelines Paragraph 10.17:

*"The structural element may be a single component or a combination of individual components linked together."*

Even if claim 12 had been directed to one of the compounds recited in composition claim 1, (which it was not), unity of invention would have been present in view of ISPE Guideline Example 15.

Claim 1: Compound A.

Claim 2: An insecticide composition comprising compound A and a carrier.

Unity exists between claims 1 and 2. The special technical feature common to all the claims is compound A.

Moreover, even if this application had been filed under 35 USC 111(a) (which it was not), dependent claim 12 would not be considered independent and distinct from independent claim 1 because Claim 12 requires all the limitations of Claim 1.

In view of these inconsistencies, the treatment of Claim 12 in the first and second FINAL Office actions on the merits has created confusion such that the Office has not established a clear record as required by MPEP 814, which states:

The examiner must provide a clear and detailed record of the restriction requirement to provide a clear demarcation between restricted inventions so that it can be determined whether inventions claimed in a continuing application are consonant with the restriction requirement and therefore subject to the prohibition against double patenting rejections under 35 U.S.C. 121. *Geneva Pharms. Inc. v. GlaxoSmithKline PLC*, 349 F.3d 1373, 1381, 68 USPQ2d 1865, 1871 (Fed. Cir. 2003). See also MPEP § 804.01.

Turning now to the merits of the petition, applicants are correct that Claim 12 has unity of invention with the already examined claims 1-6 and 8-11 for the following reasons:

Independent Claim 1 is directed to a composition that requires a pesticide from Group I and a pesticide from Group 2. Dependent claims 4 and 5 further describe the pesticide from Group I. Claim 12 depends from claim 5 and sets forth a subset of compounds from Group 2. Each of the compounds listed in withdrawn claim 12 are also listed in already-examined claim 1.

12. (New) The composition of claim 5 wherein the active compound of group 2 is selected from the group consisting of clothianidin, imidacloprid, tefluthrin, tebupirimfos, spinosad, and fipronil.

Claim 12 meets the requirements of 37 CFR 1.75(c) because it requires all the limitations of the independent and intervening claims and because claim 12 further limits the independent and intervening claims.

Finally, applicants are correct that the examiner cannot elect a species for applicants. Had a lack of unity requirement been originally made amongst the species of Claim 1, (which it had not) the examiner could not have been permitted to make an election for applicants, per MPEP 818.03.

Applicant must make his or her own election; the examiner will not make the election for the applicant. 37 CFR 1.142, 37 CFR 1.143.

**DECISION**

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

The election of species requirement mailed 21 August 2009 has been withdrawn.

The Office action mailed 21 August 2009 has been vacated as incomplete.

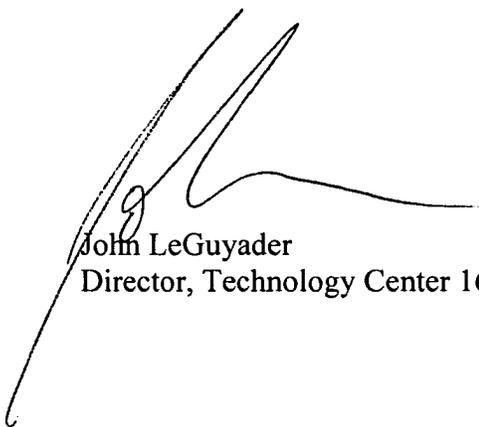
*JB* Claims 1-6 and 8-<sup>12</sup>~~11~~ will be examined together.

**The application will be forwarded to the examiner for consideration of the papers for preparation of an Office action consistent with this decision.**

**Because the extensive delays in initiating prosecution on the merits in this application (mailing of two Final actions, both of which have been withdrawn and the delay in examining a claim which was presented over a year ago), the next Office action will be reviewed by the Supervisory Patent Examiner prior to mailing, per MPEP 707.02 second paragraph.**

“The supervisory patent examiners are expected to personally check on the pendency of every application which is up for the third or subsequent Office action with a view to finally concluding its prosecution.”

Should there be any questions about this decision, please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0512 or by facsimile sent to the general Office facsimile number, 571-273-8300.



John LeGuyader  
Director, Technology Center 1600



# UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
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Levenfeld Pearlstein, LLC  
Intellectual Property Department  
2 North LaSalle  
Suite 1300  
Chicago, IL 60602

Mail Date: 04/20/2010

**Applicant** : Pei-Ying Lin : DECISION ON REQUEST FOR  
**Patent Number** : 7607550 : RECALCULATION of PATENT  
**Issue Date** : 10/27/2009 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/555,159 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 12/01/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

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

The patent term adjustment has been determined to be **753** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



28 SEP 2007

LEVENFELD PEARLSTEIN, LLC  
2 N. LaSalle Street  
Suite 1300  
Chicago, IL 60602

In re Application of: CHANWA, et al. :  
U.S. Application No.: 10/555,160 (11/718,071) : DECISION MERGING  
PCT No.: PCT/US05/39395 : APPLICATION FILES  
International Filing Date: 26 October 2005 :  
Priority Date: 26 October 2004 :  
Attorney's Docket No.: 34451-55892 :  
For: TOOL STORAGE DEVICE :

This communication is in response to applicant's filing in the United States Patent Trademark Office (USPTO) of 15 June 2007.

### BACKGROUND

On 26 October 2005, applicant filed in the United States Patent and Trademark Office (USPTO) papers requesting entry into the national phase of international application PCT/US05/39395, filed 26 October 2005, entitled TOOL STORAGE DEVICE. The inventors are indicated as Chanwa Nguy and Pei-Ying Lin. The attorney docket number was listed as 34451-55891.

On 29 May 2007, applicant was mailed a communication informing applicant of the need to file an executed oath or declaration of the inventor in order to proceed with national stage processing in the United States as counsel for another firm had also filed U.S. National stage papers. Applicant was afforded two months to file the document and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 15 June 2007, a declaration and power of attorney was filed appointing attorneys associated with the law firm of Levenfeld Pearlstein, LLC.

### DISCUSSION

A review of applicant's filing finds that the combined declaration and power of attorney complies with 37 CFR 1.497(a)-(b)<sup>1</sup>. As such, the firm noted above will be used as the correspondence address for all communications relating to the U.S. National stage entry of

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<sup>1</sup> It is noted that the citizenship of inventor Nguy is listed as "None." In accordance with MPEP 605.01, applicant's statement will be accepted as satisfying 37 CFR 1.497(a)(3).

PCT/US05/39395. Because the USPTO initially assigned application number 10/555,160 as the national stage application for PCT/US05/39395, the papers filed by applicant on 26 April 2007 and assigned application number 11/718,071 will be placed in application number 10/555,160. Applicant should reference application number 10/555,160 in any future communications with the USPTO regarding the U.S. National stage entry of PCT/US05/39395. Application number 11/718,071 will be made inactive.

**CONCLUSION**

The application has an international filing date of 26 October 2005 under 35 U.S.C. 363 and will be given a date of **15 June 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being forwarded to the United States Designated /Elected Office (DO/EO/US) for continued processing, specifically, 1) processing of the papers and fees filed 26 April 2007 and the combined declaration and power of attorney filed 15 June 2007, 2) updating the correspondence address for the present application and 3) the preparation and mailing of a "Notification of Acceptance" (Form PCT/DO/EO/903).



Derek A. Putonen  
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cc:

Leon I. Edelson  
Law Office of Leon I. Edelson  
P.O. Box 230  
Deerfield, IL 60015

10/01/2007 SBASHEIK 00000000 502035 10555160  
Sale Ref: 00000010 DA#: 502035 10555160  
01 FC:1631 300.00 DA  
02 FC:1632 500.00 DA  
03 FC:1633 200.00 DA



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LEVENFELD PEARLSEIN, LLC  
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In re Application of	:	DECISION ON
NGUY et al	:	
Application No.: 10/555,161	:	
PCT No.: PCT/US2005/039397	:	
Int. Filing Date: 26 October 2005	:	PETITION UNDER
Priority Date: NA	:	
Attorney's Docket No.: 34451-57026	:	
For: UPRIGHT SHAFT POST CAPABLE...	:	
VARIOUS CONTAINERS	:	37 CFR 1.137(b)

This decision is in response to applicant's "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION PURSUANT TO 37 C.F.R. 1.137(b)," filed on 08 May 2008.

**BACKGROUND**

On 26 October 2005, this international application was filed, and also it was filed at the National Stage in the USPTO but the basic national fee was not paid at such time.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 26 April 2008. This international application became abandoned with respect to the United States at midnight on 26 April 2008 for failure to pay the required basic national fee.

On 29 April 2008, applicants filed an executed declaration.

On 30 April 2008, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) which indicated that the application is abandoned because applicant has failed to respond to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2)).

On 08 May 2008, applicants filed the instant petition under 37 CFR 1.137(b) 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 **08 May 2008**.



Rafael Bacares  
PCT Legal Examiner  
PCT Legal Office  
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01 MAY 2008

Philip S Johnson  
Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick NJ 08933-7003

In re Application of :  
RUHE, et al. :  
PCT No.: PCT/EP04/04627 : DECISION ON PETITION  
Application No.: 10/555,167 :  
Int. Filing Date: 30 April 2004 : UNDER 37 CFR 1.137(b)  
Priority Date: 01 May 2003 :  
Atty. Docket No.: J&J5036USPCT :  
For: PATTERNED SHEET PRODUCTS :

This decision is in response to applicant's petition under 37 CFR § 1.137(b) filed 18 April 2008 in the United States Patent and Trademark Office (USPTO).

### BACKGROUND

On 30 April 2004, applicant filed international application PCT/EP04/04627 which claimed priority to an earlier application filed 01 May 2003. A copy of the international application was communicated to the USPTO from the International Bureau 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 01 November 2005.

On 01 November 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and an unsigned declaration of the inventors.

On 03 November 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 25 January 2008, 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 03 November 2006 within the time period set therein and that above-identified application was abandoned as to the United States.

On 18 April 2008, applicant filed the present petition to revive under 37 CFR 1.137(b).

### DISCUSSION

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Applicant has satisfied items (2) and (3). It is noted that item (4) does not apply to the present application.

Regarding item (1), the proper reply was a compliant, executed oath or declaration of the inventors. The declaration filed 18 April 2008 does not comply with 37 CFR 1.497 (a)-(b).

Specifically, MPEP Section 201.03 states that:

An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. **Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.** (boldness added)

The currently filed declaration contains 3 pages separately executed by the inventors Ruhe, Van Impe and Hauser. This suggests that either the filed declaration was compiled from numerous declarations or that the inventors only returned their signature pages. Either scenario renders the document non-compliant.

In light of the above, it is not possible to grant applicant's petition at this time.

### CONCLUSION

For the reasons stated above, applicant's petition to revive under 37 CFR 1.137(b) is **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required.

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



Derek A. Putonen  
Attorney Advisor  
Office of PCT Legal Administration  
Tel: (571) 272-3294  
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02 JUL 2008

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
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Philip S Johnson  
Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick NJ 08933-7003

In re Application of	:	
RUHE, et al.	:	
PCT No.: PCT/EP04/04627	:	DECISION ON RENEWED
Application No.: 10/555,167	:	
Int. Filing Date: 30 April 2004	:	PETITION UNDER
Priority Date: 01 May 2003	:	
Atty. Docket No.: J&J5036USPCT	:	37 CFR 1.137(b)
For: PATTERNED SHEET PRODUCTS	:	

The renewed petition to revive under 37 CFR 1.137(b) filed 30 May 2008 in the above-captioned application is hereby **GRANTED** as follows:

As detailed in the decision mailed 01 May 2008, 37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Applicant previously satisfied items (2) and (3), while item (4) did not apply.

Applicant has now provided a compliant, executed combined declaration and power of attorney in response to the Form PCT/DO/EO/905. 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 application has an international filing date of 30 April 2004 under 35 U.S.C. 363 and will be given a date of **30 May 2008** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,171	11/01/2005	Ikuo Nuno	0121/0056	2894

21395 7590 04/16/2008  
LOUIS WOO  
LAW OFFICE OF LOUIS WOO  
717 NORTH FAYETTE STREET  
ALEXANDRIA, VA 22314

EXAMINER

SMITH, JEFFREY A

ART UNIT	PAPER NUMBER
3625	

3625

MAIL DATE	DELIVERY MODE
04/16/2008	PAPER

04/16/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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APR 16 2008

TECHNOLOGY CENTER 3600

LOUIS WOO  
LAW OFFICE OF LOUIS WOO  
717 NORTH FAYETTE STREET  
ALEXANDRIA VA 22314

In re Application of: : DECISION ON REQUEST TO  
Ikuo Nuno et al. : PARTICIPATE IN PATENT  
Application No.: 10/555,171 : PROSECUTION HIGHWAY PILOT  
Filed: November 1, 2005 : PROGRAM AND PETITION TO  
Attorney Docket No.: 0121/0056 : MAKE SPECIAL UNDER 37 CFR  
For: Electronic Service Manual : 1.102(d)  
Display Control Device :

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 27, 2007, to make the above-identified application special.

The request and petition are DISMISSED.

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

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

The request to participate in the PPH pilot is not grantable as per items (2) and (3). While applicant has submitted an English translation of the allowable/patentable claims, a copy of the claims from the JPO application have not been provided. Also, while an English translation of the JPO's Office action has been filed, a copy of the JPO's Office action has not been provided. Applicant is requested to submit copies via USPTO's EFS-Web.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Telephone inquiries concerning this decision should be directed to Robert Weinhardt at 571-272-6633. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.



Robert Weinhardt

TC3600

Business Practice Specialist



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United States Patent and Trademark Office  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,171	11/01/2005	Ikuo Nuno	0121/0056	2894
21395	7590	10/27/2008	EXAMINER	
LOUIS WOO LAW OFFICE OF LOUIS WOO 717 NORTH FAYETTE STREET ALEXANDRIA, VA 22314			AIRAPETIAN, MILA	
			ART UNIT	PAPER NUMBER
			3625	
			MAIL DATE	DELIVERY MODE
			10/27/2008	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.



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DIRECTORS OFFICE

OCT 27 2008

TECHNOLOGY CENTER

LOUIS WOO  
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ALEXANDRIA VA 22314

In re Application of:	:	DECISION ON REQUEST TO
Nuno et al.	:	PARTICIPATE IN PATENT
Application No.: 10/555,171	:	PROSECUTION HIGHWAY PILOT
Filed: November 01, 2005	:	PROGRAM AND PETITION TO
Attorney Docket: 0121/0056	:	MAKE SPECIAL UNDER 37 CFR
For: Electronic Service Manual	:	1.102(d)
Display Control Device	:	

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed December 27, 2007 and the response and supplemental materials in support of the petition filed May 08, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and the supplemental materials comply with the above requirements. Therefore, the above-identified application has been accorded "special" status and is being forwarded to the examiner for action on the merits commensurate with this decision

Telephone inquires concerning this decision should be directed to Robert Weinhardt at 571-272-6633. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.



Robert Weinhardt  
TC3600  
Business Practice Specialist



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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
10/555,182 01/03/2007 Takao Yagi 278838US6PCT 9018
EXAMINER TON, MINH TOAN T
ART UNIT 2889 PAPER NUMBER
NOTIFICATION DATE 01/31/2008 DELIVERY MODE 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. [x] The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. [ ] The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,186	11/01/2005	Ikuo Nuno	0121/0054	9026
21395	7590	02/14/2008		
LOUIS WOO LAW OFFICE OF LOUIS WOO 717 NORTH FAYETTE STREET ALEXANDRIA, VA 22314			EXAMINER HASSAN, RASHEDUL	
			ART UNIT	PAPER NUMBER
			2179	
			MAIL DATE	DELIVERY MODE
			02/14/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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FEB 14 2008

TECHNOLOGY CENTER 2100

Commissioner for Patents  
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LAW OFFICE OF LOUIS WOO  
717 NORTH FAYETTE STREET  
ALEXANDRIA VA 22314

In re Application of: NUNO et al.  
Application No. 10/555,186  
Filed: November 1, 2005  
For: Electronic Service Manual Display  
Program And Recording Medium On  
Which The Program Is Recorded,  
Electronic Service Manual Display  
Control Method And Electronic Service  
Manual Display Control Apparatus,  
Program Transmission Method And  
Program Transmission Apparatus, And  
Program Reception Method And  
Program Reception Apparatus

DECISION ON REQUEST TO  
PARTICIPATE IN PATENT  
PROSECUTION HIGHWAY PILOT  
PROGRAM AND PETITION TO  
MAKE SPECIAL UNDER 37 CFR  
1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed December 26, 2007, to make the above-identified application special.

The petition is **DISMISSED**.

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

- (1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
- (2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
- (3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
- (4) Examination of the U.S. application has not begun;

- (5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
- (6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
- (7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition failed:

1) item (2) above, since applicant failed to 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. While applicant has provided a translation of the claims in the English language, and the required statement regarding accuracy of the translation, the claims allowed in Japanese, are missing in the petition.

2) item (5) above, since applicant failed to 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. While applicant has provided a translation of the "Reasons for Refusal" in the English language, and the required statement regarding accuracy of the translation, the applicant has not provided a Japanese language document of the reasons for refusal.

Accordingly, the Petition is **DISMISSED**.

Applicant is given a time period of ONE MONTH or THIRTY DAYS, whichever is longer, to correct the deficiencies. NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.

If the deficiencies are not corrected within the time period given, the application will await action in its regular turn.

Response must be faxed to Mano Padmanabhan at 571-273-4210 (RightFax) or 571-273-0308.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

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



Mano Padmanabhan

Quality Assurance Specialist, Technology Center 2100, Workgroup 2180  
571-272-4210



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Alexandria, VA 22313-1450  
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**MAIL**

JAN 30 2008

DIRECTOR'S OFFICE  
TECHNOLOGY CENTER 2600

LOUIS WOO  
LAW OFFICE OF LOUIS WOO  
717 NORTH FAYETTE STREET  
ALEXANDRIA VA 22314

In re Application of :  
NUNO, IKUO, et al. :  
Application No. 10/555,187 :  
Filed: November 1, 2005 :  
Attorney Docket No. 0121/0053 :  
: DECISION ON REQUEST TO  
: PARTICIPATE IN PATENT  
: PROSECUTION HIGHWAY  
: PILOT PROGRAM AND PETITION  
: TO MAKE SPECIAL UNDER  
: 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed December 26, 2007, to make the above-identified application special.

The request and petition are **DISMISSED**.

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

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

The request to participate in the PPH pilot program and petition is deficient as follows:

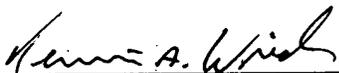
Petitioner has not complied with item 2 above in that although a translation of the claims has been submitted, the petition fails to include a copy of the actual allowable/patentable claims from the JPO application. The U.S. Patent and Trademark Office does not have the capability to download JP language documents from the Dossier Access System at this time. Petitioner has also not complied with item 5 above in that although a translation of the Japanese Office actions of February 23, 2007 and July 31, 2007 have been submitted, the petition fails to include a copy of the Japanese language Office actions.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to Kenneth Wieder at 571-273-2986 (RightFax) or 571-273-0308 or via EFS-web.

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

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



Kenneth A. Wieder  
Quality Assurance Specialist  
Technology Center 2600  
Communications



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,190	11/01/2005	Ikuo Nuno	0121/0055	2890
21395	7590	03/28/2008	EXAMINER PARKER, BRANDON	
LOUIS WOO LAW OFFICE OF LOUIS WOO 717 NORTH FAYETTE STREET ALEXANDRIA, VA 22314			ART UNIT 2174	PAPER NUMBER
			MAIL DATE 03/28/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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MAR 28 2008

TECHNOLOGY CENTER 2100

LAW OFFICE OF LOUIS WOO  
717 NORTH FAYETTE STREET  
ALEXANDRIA VA 22314

In re Application of: NUNO et al.  
Application No. 10/555,190  
Filed: November 1, 2005  
For: Electronic Service Manual Display  
Program And Recording Medium On  
Which The Program Is Recorded,  
Electronic Service Manual Display  
Control Method And Electronic Service  
Manual Display Control Apparatus,  
Program Transmission Method And  
Program Transmission Apparatus, And  
Program Reception Method And  
Program Reception Apparatus

DECISION ON REQUEST TO  
PARTICIPATE IN PATENT  
PROSECUTION HIGHWAY PILOT  
PROGRAM AND PETITION TO  
MAKE SPECIAL UNDER 37 CFR  
1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed December 27, 2007, and the request for reconsideration of adverse decision filed February 28, 2008, to make the above-identified application special.

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 27, 2007, to make the above-identified application special.

The petition is **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).

In response to the petition decision mailed on February 14, 2008, applicants submitted a copy of the claims allowed in Japanese language, and a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s).

The request and petition are **GRANTED**.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

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.



Mano Padmanabhan

Quality Assurance Specialist, Technology Center 2100, Workgroup 2180  
571-272-4210



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OSTRAGER CHONG FLAHERTY & BROITMAN PC  
570 LEXINGTON AVENUE  
FLOOR 17  
NEW YORK, NY 10022-6894

Mail Date: 04/20/2010

<b>Applicant</b>	: Michio Kimura	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7642230	: RECALCULATION of PATENT
<b>Issue Date</b>	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/555,191	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 11/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **517** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 JAN 2007

ARNOLD & PORTER LLP  
ATTN: IP DOCKETING DEPT.  
555 TWELFTH STREET, N.W.  
WASHINGTON DC 20004-1206

In re Application of	:	
Leverve et al.	:	
Application No. 10/555,196	:	
PCT No.: PCT/SG04/00066	:	
Int. Filing Date: 22 March 2004	:	COMMUNICATION
Priority Date: 01 May 2003	:	
Atty. Docket No.: 20009.003	:	
For: Lactate Containing Pharmaceutical	:	
Composition And Uses Therefor	:	

This is in response to the declaration of inventorship filed on 13 March 2006.

**BACKGROUND**

This international application was filed on 22 March 2004, claimed an earliest priority date of 01 May 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 11 November 2004. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 01 November 2005. Applicants filed *inter alia* the basic national fee on 01 November 2005.

**DISCUSSION**

Inspection of the declaration filed on 13 March 2006, reveals that joint inventor "Iqbal MUSTAFA" is indicated to be "deceased." 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 13 March 2006 reveals that it has been executed on behalf of Iqbal Mustafa by Titie Basuki Winoto in the capacity of "heir." The declaration provides "the facts which the inventor would have been required to state" in that Iqbal Mustafa's citizenship, residence and mailing address information is provided. Moreover, the declaration also includes the citizenship, residence and mailing address data for the heir signing on behalf of Iqbal Mustafa. However, the declaration does not indicate whether Titie Basuki Winoto is the sole heir of Iqbal Mustafa, nor does such an indication appear to be present elsewhere in the application file. In the absence of an indication that Titie Basuki Winoto is either the sole heir or the legal representative of the deceased inventor, it would not be appropriate to accept the declaration under 37 CFR 1.42 at this time.

It is further noted that, while the declaration filed on 13 March 2006 nominates "Iqbal MUSTAFA" as an inventor, the published international application nominates "IQBAL, Mustafa" instead. MPEP 605.04(b) provides in part that

Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.

In that this discrepancy clearly represents more than a mere typographical error or phonetic misspelling of applicant's name, a proper petition (and fee) under 37 CFR 1.182 is required to resolve this matter. *See also* MPEP 201.03(b).

### CONCLUSION

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

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Any such reply should be entitled "Renewed Submission Under 37 CFR 1.42." 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



11 JUN 2007

Commissioner for Patents  
United States Patent and Trademark Office  
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ARNOLD & PORTER LLP  
ATTN: IP DOCKETING DEPT.  
555 TWELFTH STREET, N.W.  
WASHINGTON DC 20004-1206

In re Application of	:	
Leverve et al.	:	
Application No. 10/555,196	:	
PCT No.: PCT/SG04/00066	:	
Int. Filing Date: 22 March 2004	:	COMMUNICATION
Priority Date: 01 May 2003	:	
Atty. Docket No.: 20009.003	:	
For: Lactate Containing Pharmaceutical	:	
Composition And Uses Therefor	:	

This is in response to the renewed submission under 37 CFR 1.42 and the petition under 37 CFR 1.182 filed on 25 April 2007.

**DISCUSSION**

*Submission Under 37 CFR 1.42*

In a decision mailed on 09 January 2007, the declaration filed on 13 March 2006 was not accepted under 37 CFR 1.42, without prejudice, because

Further examination of the declaration filed on 13 March 2006 reveals that it has been executed on behalf of Iqbal Mustafa by Titie Basuki Winoto in the capacity of "heir." The declaration provides "the facts which the inventor would have been required to state" in that Iqbal Mustafa's citizenship, residence and mailing address information is provided. Moreover, the declaration also includes the citizenship, residence and mailing address data for the heir signing on behalf of Iqbal Mustafa. However, the declaration does not indicate whether Titie Basuki Winoto is the sole heir of Iqbal Mustafa, nor does such an indication appear to be present elsewhere in the application file. In the absence of an indication that Titie Basuki Winoto is either the sole heir or the legal representative of the deceased inventor, it would not be appropriate to accept the declaration under 37 CFR 1.42 at this time.

It is further noted that, while the declaration filed on 13 March 2006 nominates "Iqbal MUSTAFA" as an inventor, the published international application nominates "IQBAL, Mustafa" instead. MPEP 605.04(b) provides in part that...

*Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.*

In that this discrepancy clearly represents more than a mere typographical error or phonetic misspelling of applicant's name, a proper petition (and fee) under 37 CFR 1.182 is required to resolve this matter. See also MPEP 201.03(b).

In response, the instant renewed petition indicates that Mrs. Titie Basuki Winoto is the "sole heir" of the deceased inventor. Petitioner has provided a statement (and translation) by Mrs. Titie Basuki Winoto to the effect that she is the sole heir; this is corroborated by a "Certificate of Inheritance" (and translation) stating that she is "the only one heir of the deceased DR Iqbal Moestafa." The submission of the declaration executed by the "sole heir" of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

In view of the fact that the declaration is not being accepted (see the following discussion), it would not be appropriate to grant the requested relief under 37 CFR 1.42 at this time.

*Petition Under 37 CFR 1.182*

With regard to the issue of the deceased inventor's name, applicant petitions for relief under 37 CFR 1.182, stating that

In order to address the Office's concerns regarding the given name and surname of the inventor, Applicants provide the aforementioned Certificate and Affidavit. Applicants respectfully submit that the Certificate and Affidavit set forth in Exhibits A and B clarify the given name and surname of the deceased inventor as Iqbal MUSTAFA (also translated from Indonesian as Iqbal MOESTAFA, see footnote 1).

The referenced footnote 1 indicates that

We note for the attention of the Petitions Office that the verified translations of both the Certificate and Affidavit have translated the surname Mustafa as Moestafa. We understand from our client that this represents an alternative translation of the Indonesian surname.

The evidence presented does not include a clear indication (such as a statement made on the basis of first-hand) knowledge that the Iqbal Mustafa nominated on the declaration was the same individual who was listed as an inventor of the published international application (ordinarily, this requirement may be satisfied by providing a statement signed by the inventor). It is noted that the evidence presented does show the existence of an individual named Iqbal Mustafa (or Moestafa) who is survived by Mrs. Titie Basuki Winoto, but there is no clear showing on the identity of this person as the same person who was an inventor in the international stage. In the absence of an appropriate showing that Iqbal Mustafa as nominated by the declaration is the same person as "IQBAL, Mustafa" nominated by the published international application, it would not be appropriate to grant the requested relief at this time.

**CONCLUSION**

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

The petition under 37 CFR 1.182 is **DISMISSED**, without prejudice.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Any such reply should be entitled "Renewed Submission Under 37 CFR 1.42 and Petition Under 37 CFR 1.182." 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



21 AUG 2007

ARNOLD & PORTER LLP  
ATTN: IP DOCKETING DEPT.  
555 TWELFTH STREET, N.W.  
WASHINGTON DC 20004-1206

In re Application of	:	
Leverve et al.	:	
Application No. 10/555,196	:	
PCT No.: PCT/SG04/00066	:	
Int. Filing Date: 22 March 2004	:	COMMUNICATION
Priority Date: 01 May 2003	:	
Atty. Docket No.: 20009.003	:	
For: Lactate Containing Pharmaceutical	:	
Composition And Uses Therefor	:	

This is in response to the renewed submission under 37 CFR 1.42 and the renewed petition under 37 CFR 1.182 filed on 13 August 2007.

**DISCUSSION**

*Petition Under 37 CFR 1.182*

In a Decision mailed on 11 June 2007, the petition under 37 CFR 1.182 filed on 25 April 2007 was dismissed, without prejudice, because

The evidence presented does not include a clear indication (such as a statement made on the basis of first-hand) knowledge that the Iqbal Mustafa nominated on the declaration was the same individual who was listed as an inventor of the published international application (ordinarily, this requirement may be satisfied by providing a statement signed by the inventor). It is noted that the evidence presented does show the existence of an individual named Iqbal Mustafa (or Moestafa) who is survived by Mrs. Titie Basuki Winoto, but there is no clear showing on the identity of this person as the same person who was an inventor in the international stage. In the absence of an appropriate showing that Iqbal Mustafa as nominated by the declaration is the same person as "IQBAL, Mustafa" nominated by the published international application, it would not be appropriate to grant the requested relief at this time.

In response, petitioner has provided a "Statement of Xavier M. Leverve" stating in part that "Based upon first-hand personal knowledge I declare that the person listed as my co-inventor as IQBAL, Mustafa is the same individual as Iqbal MUSTAFA (or MOESTAFA) who was survived by his wife, Titie Basuki Winoto, and whose name appears on the declaration provided to the United States Patent and Trademark Office." This statement is corroborated by the accompanying "Statement of Dr. Rikrik Ilyas." Based on the totality of the evidence now of record, it would be appropriate to grant the requested relief (i.e., acceptance of the name Iqbal MUSTAFA as it appears on the Declaration filed on 13 March 2006) under 37 CFR 1.182.

*Submission Under 37 CFR 1.42*

In view of the fact that the relief requested under 37 CFR 1.182 is being granted as described above, and since the requirements of 37 CFR 1.42 have been satisfied, it would now be appropriate to accept the declaration filed on 13 March 2006 under 37 CFR 1.42.

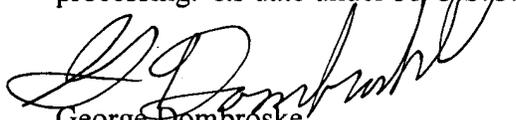
**CONCLUSION**

The petition under 37 CFR 1.182 is **GRANTED**.

The declaration filed on 13 March 2006 is **ACCEPTED** under 37 CFR 1.42.

The duplicate \$400.00 petition fee paid on 13 August 2007 was not required, and it is being refunded to counsel's Deposit Account no. 50-2387.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **13 March 2006**.

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



# UNITED STATES PATENT AND TRADEMARK OFFICE

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FULBRIGHT & JAWORSKI L.L.P.  
600 CONGRESS AVE.  
SUITE 2400  
AUSTIN, TX 78701

Mail Date: 04/21/2010

<b>Applicant</b>	: Martin Houle	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7641583	: RECALCULATION of PATENT
<b>Issue Date</b>	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
<b>Appliction No</b>	: 10/555,201	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 09/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **761** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



MATTHIAS SCHOLL  
14781 MEMORIAL DRIVE  
SUITE 1319  
HOUSTON TX 77079

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SEP 19 2007

**OFFICE OF PETITIONS**

Applicant: L. Graute et al.  
Appl. No.: 10/555,203  
Filing Date: April 30, 2004  
Title: MOTOR VEHICLE DOOR LOCK  
Attorney Docket No.: KKRT-00401-NUS  
Pub. No.: US 2006/0202487 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 22, 2006 and status inquiry received on February 2, 2007, for the above-identified application

The request is granted-in-part.

Applicant requests that the application be republished because the patent application publication contains material errors, wherein the drawings were not included published application and in that the inventor's name was missing an Umlaut over the letter "O".

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.<sup>1</sup>

The request for republication of the application with respect to the drawings is GRANTED. The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

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

The error noted by requestor in that the inventor's name was missing an Umlaut may be an Office error, but symbols such as Umlauts are not included in pre-grant publications.

The supplemental application data sheet submitted on October 22, 2006 does not comply with 37 CFR 1.76(c), which requires changes in data to be indicated.

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

Inquiries relating to this matter may be directed to Mark 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



28 SEP 2007

LEVENFELD PEARLSTEIN, LLC  
2 N. LaSalle Street  
Suite 1300  
Chicago, IL 60602

In re Application of: CHANWA, et al. :  
U.S. Application No.: 10/555,211 (11/718,075) : DECISION MERGING  
PCT No.: PCT/US05/39402. : APPLICATION FILES  
International Filing Date: 26 October 2005 :  
Priority Date: 26 October 2004 :  
Attorney's Docket No.: 34451-55908 :  
For: VERTICAL TOOL RACK STORAGE DEVICE :

This communication is in response to applicant's filing in the United States Patent Trademark Office (USPTO) of 15 June 2007.

### BACKGROUND

On 26 October 2005, applicant filed in the United States Patent and Trademark Office (USPTO) papers requesting entry into the national phase of international application PCT/US05/39402, filed 26 October 2005. The inventors are indicated as Chanwa Nguy and Pei-Ying Lin. The attorney docket number was listed as 34451-55908.

On 29 May 2007, applicant was mailed a communication informing applicant of the need to file an executed oath or declaration of the inventor in order to proceed with national stage processing in the United States as counsel for another firm had also filed U.S. National stage papers. Applicant was afforded two months to file the document and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 15 June 2007, a declaration and power of attorney was filed appointing attorneys associated with the law firm of Levenfeld Pearlstein, LLC.

### DISCUSSION

A review of applicant's filing finds that the combined declaration and power of attorney complies with 37 CFR 1.497(a)-(b)<sup>1</sup>. As such, the firm noted above will be used as the correspondence address for all communications relating to the U.S. National stage entry of PCT/US05/39402. Because the USPTO initially assigned application number 10/555,160 as the national stage application for PCT/US05/39402, the papers filed by applicant on 26 April 2007

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<sup>1</sup>It is noted that the citizenship of inventor Nguy is listed as "None." In accordance with MPEP 605.01, applicant's statement will be accepted as satisfying 37 CFR 1.497(a)(3).

and assigned application number 11/718,075 will be placed in application number 10/555,211. Applicant should reference application number 10/555,211 in any future communications with the USPTO regarding the U.S. National stage entry of PCT/US05/39402. Application number 11/718,075 will be made inactive.

**CONCLUSION**

The application has an international filing date of 26 October 2005 under 35 U.S.C. 363 and will be given a date of **15 June 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being forwarded to the United States Designated /Elected Office (DO/EO/US) for continued processing, specifically, 1) processing of the papers and fees filed 26 April 2007 and the combined declaration and power of attorney filed 15 June 2007, 2) updating the correspondence address for the present application and 3) the preparation and 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

cc:

Leon I. Edelson  
Law Office of Leon I. Edelson  
P.O. Box 230  
Deerfield, IL 60015



02 FEB 2007

WELSH & KATZ, LTD  
120 S RIVERSIDE PLAZA  
22ND FLOOR  
CHICAGO IL 60606

In re Application of:	:	
MURRAY, Kevin, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/555,214	:	
PCT No.: PCT/IL2005/000685	:	
International Filing Date: 28 June 2005	:	
Priority Date: 16 August 2004	:	
Atty Docket No.: 7251-95173	:	
For: SYSTEM FOR PROVIDING	:	
ACCESS TO OPERATION	:	
INFORMATION	:	

This decision is issued in response to the "Request For Corrected Filing Receipt" filed 20 November 2006, treated in part herein as a petition under 37 CFR 1.10(c) to correct the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). No petition fee is required.

**BACKGROUND**

On 28 June 2005, applicants filed international application PCT/IL2005/000685. The application claimed a priority date of 16 August 2004, and it designated the United States. On 23 February 2006, 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., 16 February 2007.

On 31 October 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.

In January 2006, applicants filed a second submission that included an executed declaration in compliance with 37 CFR 1.497 and an express request to begin national examination procedures.

On 04 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying 04 January 2006 as the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) Requirements" and the "Date Of Completion Of All 35 U.S.C. 371 Requirements." On the same date, a filing receipt was issued identifying 04 January 2006 as the 371(c) date. The filing receipt also identified the application number for applicant's foreign priority claim as GB 0404182.7 (consistent with the published international application).

On 20 November 2006, applicants filed the "Request For Corrected Filing Receipt" considered herein. The submission requests: (1) that the foreign priority claim set forth in the filing receipt be corrected to correspond to the claim set forth in the Application Data Sheet (ADS) and declaration filed herein; and (2) that the date under 35 U.S.C. 371(c) be corrected from 04 January 2006 to 03 January 2006, the date on which applicants assert the declaration completing the requirements was deposited with the USPS as "Express Mail" (this portion of the request is treated below as a petition under 37 CFR 1.10(c)).

### **DISCUSSION**

#### **1. Foreign Priority Claim:**

The foreign priority claim set forth in the filing receipt corresponds to the foreign priority claim made during the international phase of this application, as indicated in the published international application. Applicants have not submitted evidence that this priority claim was corrected during the international phase.

Here, applicants request that the application number for the foreign application be corrected to GB 0418279.6; this is the application number set forth in the declaration and ADS filed herein. However, pursuant to 37 CFR 1.55(a)(1)(ii), any claim for foreign priority made in a national stage application filed under 35 U.S.C. 371 must be made "within the time limit set forth in the PCT and the Regulations under the PCT." Pursuant to PCT Rule 26bis, any such priority claim would have needed to be made or corrected within 16 months of the priority date, that is, prior to 16 December 2004. The present request to correct the foreign priority claim was filed long after expiration of this time period, and was not made pursuant to the "PCT and the Regulations under the PCT."

It is noted that the provisions of 37 CFR 1.55(c), which permit applicants, under some circumstances, to petition for the addition of an unintentionally delayed foreign priority claim, do not apply to U.S. national stage applications; 37 CFR 1.55(c) applies only to claims for priority made under 35 U.S.C. 119(a)-(d) or 365(a), while the claim herein is made under 35 U.S.C. 365(b).

Based on the above, applicants' request to correct the foreign priority claim herein cannot be granted on the present record.

#### **2. Petition To Correct 35 U.S.C. 371 Date Under 37 CFR 1.10(c):**

Applicants' second submission herein, which contained the declaration required to complete the 35 U.S.C. 371(c) requirements, included a "Certificate of Mailing." The Certificate of Mailing stated that the submission was filed via "Express Mail," itemized the contents (including the declaration), and identified the "Express Mail" label number as EV556816796US. The present submission includes a copy of the customer receipt for "Express Mail" label number EV556816796US; this label bears a "date in" of 03 January 2006. In addition, the USPS online tracking data for this envelope confirms that the USPS accepted the envelope on 03 January 2006.

Based on applicants' statements in the present petition, the "date in" on the "Express Mail" label, the online tracking data, and the "Certificate of Mailing" included with the filed declaration, it is concluded that the second submission filed by applicants herein (including the declaration required to complete the 35 U.S.C. 371(c) requirements) was deposited with the USPS as "Express Mail" on 03 January 2006. Pursuant to 37 CFR 1.10(c), these materials are properly accorded a filing date of 03 January 2006.

### CONCLUSION

For the reasons set forth above, applicants' request to correct the foreign priority claim herein is **DISMISSED** without prejudice.

Applicants' petition under 37 CFR 1.10(c) to correct the date under 35 U.S.C. 371(c) is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed on 04 October 2006 are hereby **VACATED**.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a corrected Notification of Acceptance (Form PCT/DO/EO/903) properly identifying **03 January 2006** as the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) Requirements" and the "Date Of Completion Of All 35 U.S.C. 371 Requirements."

In addition, a corrected filing receipt will be issued that correctly identifies the 35 U.S.C. 371(c) date as **03 January 2006**.



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



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NEW YORK, NY 10112

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FEB 12 2009

**OFFICE OF PETITIONS**

In re Application of :  
Kuroda et al. :  
Application No. 10/555,218 : DECISION ON PETITION  
Filed: November 1, 2005 :  
Attorney Docket No. 2271/75419 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 19, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 20, 2008. A Notice of Abandonment was mailed May 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of \$1,540.00, and (3) an adequate statement of unintentional delay.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This application is being referred to Technology Center AU 2861 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/  
Liana Walsh  
Petitions Examiner  
Office of Petitions

cc: Paul Teng  
Cooper & Dunham LLP  
1185 Avenue of the Americas  
New York, New York 10036



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

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**JUN 03 2008**

**OFFICE OF PETITIONS**

In re Application of  
**DORN, Jurgen**  
Application No. 10/555,228  
Filed: October 31, 2005  
Attorney Docket No. **480052000800**

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 23, 2008.

The request is not approved because it is **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 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**



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ALEXANDRIA VA 22314

**MAIL**

JAN 30 2008

DIRECTOR'S OFFICE  
TECHNOLOGY CENTER 2600

In re Application of	:	
NUNO, IKUO, et al.	:	DECISION ON REQUEST TO
Application No. 10/555,240	:	PARTICIPATE IN PATENT
Filed: November 1, 2005	:	PROSECUTION HIGHWAY
Attorney Docket No. 0121/0057	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed December 27, 2007, to make the above-identified application special.

The request and petition are **DISMISSED**.

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

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

The request to participate in the PPH pilot program and petition is deficient as follows:

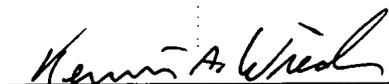
Petitioner has not complied with item 2 above in that although a translation of the claims has been submitted, the petition fails to include a copy of the actual allowable/patentable claims from the JPO application. The U.S. Patent and Trademark Office does not have the capability to download JP language documents from the Dossier Access System at this time. Petitioner has also not complied with item 5 above in that although a translation of the Japanese Office action of December 26, 2006 has been submitted, the petition fails to include a copy of the Japanese language Office action.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to Kenneth Wieder at 571-273-2986 (RightFax) or 571-273-0308 or via EFS-web.

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

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



Kenneth A. Wieder  
Quality Assurance Specialist  
Technology Center 2600  
Communications



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NXP INTELLECTUAL PROPERTY DEPARTMENT  
M/S41-SJ  
1109 McKay Drive  
San Jose, CA 95131

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**MAR 13 2008**

In re Application of :  
Johannes Van Nieuwenburg :  
Application No. 10/555,269 : DECISION ON PETITION  
Filed: November 01, 2005 :  
Attorney Docket No. NL 030454 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 09 January 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 06 April 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 07 July 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 and response to office action mailed on 06 April 2007, (2) the petition fee of \$1,540.00, and (3) a proper statement of unintentional delay.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Allen C. Ho at (571) 272-6052.

This application is being referred to Technology Center AU 2618 for appropriate action by the Examiner in the normal course of business on the reply received



David Bacci  
Petitions Examiner  
Office of Petitions

Cc:  
Thomas H. Ham  
PMB: 348  
2530 Berryessa Road  
San Jose, CA 95132



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SAN JOSE CA 95131

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JUN 22 2009

**OFFICE OF PETITIONS**

In re Application of :  
Marc Lambertus Vlemmings :  
Application No. 10/555,270 : ON PETITION  
Filed: November 1, 2005 :  
Attorney Docket No. NL 030453 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 14, 2009.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed October 20, 2008. This Office action set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned on January 5, 2009. A Notice of Abandonment was mailed on May 11, 2009.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

The application is being forwarded to Group Art Unit 2855 for consideration of the Amendment filed May 14, 2009.

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

  
Cliff Congo  
Petitions Attorney  
Office of Petitions



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YOUNG & THOMPSON  
209 Madison Street  
Suite 500  
Alexandria, VA 22314

Mail Date: 07/01/2010

**Applicant** : Jean-Luc Georges Battini : DECISION ON REQUEST FOR  
**Patent Number** : 7642061 : RECALCULATION of PATENT  
**Issue Date** : 01/05/2010 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/555,289 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 07/03/2006 : ISSUE CERTIFICATE OF CORRECTION  
:

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

The patent term adjustment has been determined to be **827** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

11 APR 2008



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www.uspto.gov

CLARIANT CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
4000 MONROE ROAD  
CHARLOTTE NC 28205

In re Application of	:	
BORCHERS, Georg et al.	:	
Application No. 10/555,290	:	DECISION
PCT No.: PCT/EP2004/004426	:	
Int. Filing Date: 27 April 2004	:	ON PETITION UNDER
Priority Date: 02 May 2003	:	
Attorney Docket No.: 2003DE420	:	37 CFR 1.8
For: METHOD FOR PRODUCING	:	
GRANULATED AMMONIUM	:	
NITRILES	:	

This is a decision on applicants' "Petition to Withdraw Holding of Abandonment," filed on 07 January 2008.

### **BACKGROUND**

On 27 April 2004, applicants filed international application no. PCT/EP2004/004426, claiming a priority date of 02 May 2003. A copy of the international application was transmitted to the Office by the International Bureau on 11 November 2004. The deadline for payment of the basic national fee in the United States was 02 November 2005.

On 02 November 2005, applicants submitted a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 15 June 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that oath or declaration and the surcharge for late filing of the search fee, the examination fee or the oath or declaration were required.

On 07 December 2007, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909), indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 07 January 2008, applicants filed this petition indicating that applicants had timely responded to the Notification of Missing Requirements via facsimile on 15 August 2006, enclosing a copy of the 15 August 2006 response.

### **DISCUSSION**

Applicants claim to have responded to the Notification of Missing Requirements on 15

August 2006, but the facsimile transmission is not present in the file. However, 37 CFR 1.8(b) states, in part:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of correspondence, or after the application is held to be abandoned, or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Items (1), (2) and (3) have been satisfied. Applicant filed the petition promptly after the mailing of the Notification of Abandonment. Applicant supplied a copy of the declaration and the cover letter with the certificate of facsimile transmission. Applicant has provided a statement regarding the transmission of the declaration supported by the transmission receipt from the Office.

The declaration has a receipt date of 07 January 2008 and is considered timely as of 15 August 2006.

However, the published international application lists the first inventor as "Georg Borchers". The declaration lists the first inventor as "DI. Georg Borchers". As such, it does not comply with 37 CFR 1.497(a)-(b). An explanation and corrective action are required.

### CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.8 to withdraw the holding of abandonment is **GRANTED**.

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

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. Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter may be filed electronically 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  
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24 JUL 2008



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4000 MONROE ROAD  
CHARLOTTE NC 28205

In re Application of :  
BORCHERS, Georg et al. :  
Application No. 10/555,290 :  
PCT No.: PCT/EP2004/004426 :  
Int. Filing Date: 27 April 2004 : DECISION  
Priority Date: 02 May 2003 :  
Attorney Docket No.: 2003DE420 :  
For: METHOD FOR PRODUCING :  
GRANULATED AMMONIUM :  
NITRILES :

This is a decision on applicants' submission of a declaration under 37 CFR 1.497(a)-(b), filed on 14 May 2008.

**BACKGROUND**

On 11 April 2008, the Office mailed a Decision On Petition, granting applicants' petition to withdraw a holding of abandonment. However, the decision found that the declaration of the inventors was not in compliance with 37 CFR 1.497(a)-(b).

On 14 May 2008, applicants filed this submission of a declaration.

**DISCUSSION**

Applicants have explained the discrepancy in the naming of the inventor Borchers and have provided a new declaration in compliance with 37 CFR 1.497(a)-(b).

**CONCLUSION**

This application is being referred to the National Stage 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 14 May 2008.

/Erin P. Thomson/

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Attorney Advisor  
PCT Legal Administration

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



14 AUG 2006

Buchanan Ingersoll  
Burns Doane Swecker & Mathis  
P O Box 1404  
Alexandria VA 22313-1404

In re Application of	:	
Eriksson et al.	:	
Application No.: 10/555,306	:	
PCT No.: PCT/EP04/05034	:	
Int. Filing Date: 10 May 2004	:	DECISION
Priority Date: 08 May 2003	:	
Attorney Docket No.: 1034005-000015	:	
For: Method For The Generation Of Neural Progenitor Cells	:	

This is with regard to the petition under 37 CFR 1.182 filed on 13 June 2006.

**BACKGROUND**

This international application was filed on 10 May 2004, designated the United States, and claimed an earliest priority date of 08 May 2003. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 08 November 2005. Applicants filed *inter alia* the basic national fee on 02 November 2005.

On 08 June 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b), an initial computer-readable form ("CRF") of the "Sequence Listing," an initial paper or compact disc version of the "Sequence Listing", an amendment directing its entry into the application, and a statement that the CRF and paper or compact disc version are identical and (where appropriate) contain no new matter.

**DISCUSSION**

Inspection of the executed declaration of the inventors filed on 14 February 2006 reveals that it names a joint inventor, Eva Karin KILMARE, whose name does not appear on the published international application, and inspection of the published international application reveals that it lists a joint inventor, Eva Sjogren-Jansson, whose name does not appear in the declaration filed on 14 February 2006. In that this is clearly more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition under 37 CFR 1.182 is required to resolve this matter.

Applicants filed such a petition and fee on 13 June 2006. The petition was accompanied by a "Declaration Of Eva Karin Kilmare" explaining that "when my name became Eva Karin Jansson, I chose to use the name of Eva Sjogren-Jansson on technical publications to show some consistency with respect to authorship. This practice was used by me when International Patent Application No. PCT/EP2004/005034 was filed on May 10, 2004." She further explains that, "on May 10, 2005 my name was changed from Eva Karin Jansson to Eva Karin Kilmare." In view of

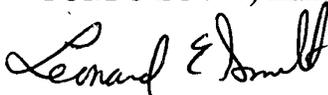
the totality of the evidence currently of record, it would be appropriate to accept the declaration filed on 14 February 2006 for purposes of 37 CFR 1.497(a) and (b).

Applicants do not appear to have responded to the requirements regarding the "Sequence Listing" set forth in the Form PCT/DO/EO/905 mailed on 08 June 2006. The period for response to that Notification continues to run.

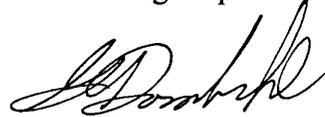
**CONCLUSION**

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch to await receipt of the remaining requirements set by the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 08 June 2006.



Leonard Smith  
PCT Legal Examiner  
PCT Legal Office



George M. Dombroske  
PCT Legal Examiner  
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Tel: (571) 272-3283  
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YOUNG & THOMPSON  
209 Madison Street  
Suite 500  
Alexandria, VA 22314

Mail Date: 08/03/2010

<b>Applicant</b>	: Philippe Watine	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7655263	: RECALCULATION of PATENT
<b>Issue Date</b>	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/555,315	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 09/05/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **820** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
10/555,348 10/31/2005 Cedric Van Rossum 9336

7590 10/22/2007
IPTV SYSTEMS, LLC
RCM # 6152
1425 SW MILIKAN WAY
BEAVERTON, OR 97005-2343

EXAMINER
SHIU, HO T

ART UNIT PAPER NUMBER
4152

MAIL DATE DELIVERY MODE
10/22/2007 PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)
The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will not be recognized for the reason(s) indicated below:

- 1. [ ] The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. [ ] The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. [X] The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. [ ] The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Handwritten signature: Tammy A. K...
Patent Publication Branch
Office of Data Management



08 MAY 2007

LOUDERMILK & ASSOCIATES  
PO Box 3607  
Los Altos, CA 94024-0607

In re Application of :  
GEORGES, Alain et al. :  
Application No.: 10/555,360 :  
PCT No.: PCT/US2004/033975 :  
Int. Filing Date: 12 October 2004 :  
Priority Date: None :  
Attorney's Docket No.: DBT007-US1 :  
For: SYSTEMS AND METHODS FOR :  
MUSIC REMIXING :

DECISION

This decision responds applicants' request under 37 CFR 1.497(d), filed in the United States Patent and Trademark Office on 20 November 2006.

**BACKGROUND**

On 12 October 2004, applicants filed international application PCT/US04/33975. The deadline for entry into the national stage in the United States was midnight 12 April 2007.

On 31 October 2005, applicants filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 21 August 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 20 November 2006, applicants submitted a declaration of the inventors, the 37 CFR 1.497(d) request and the fee for a one month extension of time.

**DISCUSSION**

The fee for a one month extension of time is not required, as the declaration was supplied before 32 months from the priority date. The fee will be refunded to deposit account no. 50-0251, as authorized.

Applicants file this request to add Yves Wenzinger and Alan R. Loudermilk as inventors. Applicants have indicated that these inventors are being added because the application has been amended.

Under 37 CFR 1.41(a)(4), the inventorship of the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any changes effected under PCT Rule 92*bis*. An oath or declaration reflecting that international stage inventorship is required. Should applicants need to change the inventorship in the national stage application on account of a preliminary amendment, that can be done with a petition under 37 CFR 1.48, AFTER the application satisfies the requirements for entry into the national stage. Requests under 37 CFR 1.497(d) are to correct errors in inventorship made during the international phase, not to change the inventorship on account of amendment.

**CONCLUSION**

For the above reasons, applicant's request under 37 CFR 1.497(d) is **REFUSED**.

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for supplying the search fee, examination fee or oath or declaration later than thirty months from the priority date are required within **TWO (2) MONTHS** from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time are available under 37 CFR 1.136(a).

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



Erin P. Thomson  
Attorney Advisor  
PCT Legal Administration

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

06 MAY 2008



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LOUDERMILK & ASSOCIATES  
PO Box 3607  
Los Altos, CA 94024-0607

In re Application of :  
GEORGES, Alain et al. :  
Application No.: 10/555,360 :  
PCT No.: PCT/US2004/033975 :  
Int. Filing Date: 12 October 2004 : DECISION  
Priority Date: None :  
Attorney's Docket No.: DBT007-US1 :  
For: SYSTEMS AND METHODS FOR :  
MUSIC REMIXING :

This decision responds applicants' response to decision, filed in the United States Patent and Trademark office on 27 August 2007.

### **BACKGROUND**

On 08 May 2007, the Office mailed Decision on Request, refusing applicants' request under 37 CFR 1.497(d).

On 27 August 2007, applicants filed this renewed request, accompanied by a declaration of the inventors and the fee for a 2 month extension of time.

### **DISCUSSION**

Applicants have now filed a declaration of the inventors executed by Alain Georges, Voislav Damevski, Eric Laurent, Stephanie Viaud-Murat and Daniel Chiamello. However, the international application also lists inventor Peter Blair and he was listed on the previously submitted declarations.

Under 37 CFR 1.41(a)(4), the inventorship of the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any changes effected under PCT Rule 92*bis*. An oath or declaration reflecting that international stage inventorship is required. If the originally stated inventorship was in error, applicants should supply a request under 37 CFR 1.497(d) are to correct errors in inventorship made during the international phase.

A new oath or declaration in compliance with the above regulations is required or a request under 37 CFR 1.497(d), as appropriate. If an inventor was omitted, applicants should explain why the inventors signed a declaration that omitted one of the inventors.

**CONCLUSION**

For the above reasons, applicants' request is **REFUSED**.

A proper reply is required within **TWO (2) MONTHS** from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time are available under 37 CFR 1.136(a).

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

/Erin P. Thomson/

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Attorney Advisor  
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Telephone: 571-272-3292

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/555,364	10/16/2006	G.M. Barrett	480102.411USPC

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC  
701 FIFTH AVE  
SUITE 5400  
SEATTLE WA 98104

DATE MAILED: April 3, 2007

**DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)**  
*The declaration of express abandonment will not be recognized*

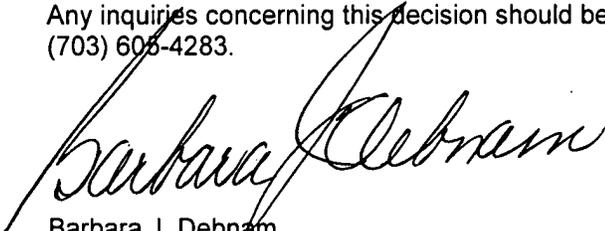
This is in response to the petition under 37 CFR 1.138(d) filed on March 26, 2007, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

- The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
- The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
- The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 606-4283.

  
Barbara J. Debnam  
Pre-Grant Publication Division



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HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. BOX 828  
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

<b>Applicant</b>	: Maxwell Graham Begley	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7644766	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/555,367	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 10/10/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **733** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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ALEXANDRIA, VA 22313-1450  
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Evelyn M. Kwon  
Morgan & Finnegan, LP  
3 World Financial Center  
New York, NY 10281-2101

In re Application of :  
ZABRISKIE *et al* :  
Application No.: 10/555,370 :  
PCT No.: PCT/US2004/009450 :  
Int. Filing Date: 26 March 2004 :  
Priority Date: 28 March 2003 :  
Atty. Docket No.: 206,923 :  
For: PEPTIDES AND MIMETICS FOR :  
REDUCING SYMPTOMS OF... :

DECISION

This is a decision on applicants' "PETITION FOR REVIVAL..." filed in the U.S. Patent and Trademark Office (USPTO) by facsimile transmission on 01 November 2005. The petition was accompanied by, *inter alia*, the requisite petition fee, and the basic national fee. The petition is **GRANTED** as discussed below.

The present application became abandoned as to the U.S. National Stage on 28 September 2005 for failure to pay the basic national filing fee prior to the expiration of 30 months from the priority date.

A review of the application file reveals that applicants have satisfied the requirements of 37 CFR 1.137(b). The requisite fees have been charged to counsel's deposit account as authorized in the petition. A review of the application file also reveals that applicant has not provided a declaration of the inventors in compliance with 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision, including the preparation and mailing of a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than 30 months from the priority date are required.

Richard R. Cole  
PCT Legal Examiner  
Office of PCT Legal Administration

(571) 272-3281  
Fax: (571) 273-0459



04 DEC 2006

Gary M. Nath  
Nath & Associates, PLLC  
1030 15<sup>th</sup> St., N.W., 6<sup>th</sup> Floor  
Washington, DC 20005-1503

In re Application of	:	
HAAPIANEN, et al.	:	
U.S. Application No.: 10/555,387	:	DECISION ON PETITION
PCT No.: PCT/FI04/00274	:	
Int. Filing Date: 06 May 2004	:	UNDER 37 CFR 1.47(a)
Priority Date: 07 May 2003	:	
Attorney Docket No.: 27058U	:	
For: METHOD FOR THE TREATMENT OF	:	
VEGETABLE MATERIAL, PRODUCT	:	
OBTAINED BY THE METHOD AND USE OF	:	
THE PRODUCT	:	

This decision is in response to applicant's "Petition Under 37 CFR 1.47 For Filing When an Inventor Refuses to Sign" filed 16 August 2006 and supplemented by additional papers on 09 November 2006 in the United States Patent and Trademark Office (USPTO).

**BACKGROUND**

On 06 May 2004, applicant filed international application PCT/FI04/00274, which claimed a priority date of 07 May 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 18 November 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 07 November 2005.

On 02 November 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; a first preliminary amendment and an Information Disclosure Statement.

On 16 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 16 August 2006, applicant filed the present petition under 37 CFR 1.47(a).

On 09 November 2006, applicant filed a supplemental petition under 37 CFR 1.47(a)

containing updated information as to the last known address of the fourth inventor, Mr. Ilkka Lehtomaki.

### DISCUSSION

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

Regarding item (1), applicant has provided payment of \$200.00 petition fee.

As to item (2), as stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature."

Applicant has included exhibits which show that the two non-signing inventors for the present application, Ilkka Lehtomaki and Markku Patajoki, were mailed a complete set of application papers. Applicant has included mail receipts which show that the inventors personally signed for the papers. Applicant has further included a letter from Mr. Ilkka Lehtomaki explaining that he will not execute the documents. As far as Mr. Patajoki, given the proof of his receipt of the papers and non-response, his silence will be considered a refusal for the purposes of proceeding pursuant to 37 CFR 1.47(a).

Regarding item (3), applicant has provided the last known address of the non-signing inventors.

As to item (4), applicant has filed a compliant declaration of the inventors executed by the remaining inventors on their own behalf and on behalf of the non-signing inventors.

Accordingly, it is proper to grant applicant's petition at this time.

### CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 06 May 2004 under 35 U.S.C. 363, and will be given a date of **16 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

Application No.: 10/555,387

3

to the non-signing inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).



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



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

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SEP 22 2009

In re Application of : OFFICE OF PETITIONS  
Amites Sarkar et al. :  
Application No. 10/555,391 : ON PETITION  
Filed: November 2, 2005 :  
Attorney Docket No.: GB030062 :

This is a decision on the petition filed August 19, 2009 under 37 CFR 1.137(b),<sup>1</sup> 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 October 7, 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 January 8, 2009. Accordingly, a Notice of Abandonment was mailed August 6, 2009.

Additionally, however, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be

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<sup>1</sup> 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);

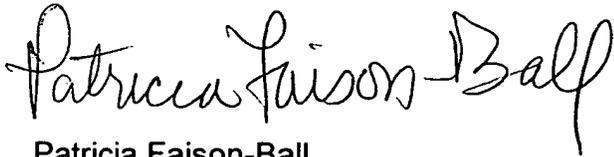
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional;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

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

submitted. A courtesy copy of this decision is being mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This matter is being referred to Technology Center 3664 for appropriate action on the amendment filed August 19, 2009.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink that reads "Patricia Faison-Ball". The signature is written in a cursive, flowing style.

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions

cc:

MARK A. WILSON  
WILSON & HAM  
PMB: 348  
2530 BERRYESSA ROAD  
SAN JOSE, CA 95132



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BRIARCLIFF MANOR, NY 10510

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**FEB 01 2010**

In re Application of  
Andrei Radulescu, et al.  
Application No. 10/555,401  
Filed: November 2, 2005  
Attorney Docket No. NL 030480

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 7, 2009, to revive the above-identified application.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$810, and the submission required by 37 CFR 1.114; (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

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

This application is being referred to Technology Center AU 2474 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



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

**MAILED**

**JUN 25 2010**

**OFFICE OF PETITIONS**

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

In re Patent of Ludwig	:	DECISION ON REQUEST
Patent No. 7,638,605	:	FOR RECONSIDERATION OF
Issue Date: December 29, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/555,407	:	AND NOTICE OF INTENT TO
Filing Date: May 3, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. X18524	:	CORRECTION

This is a decision on the petition filed on February 26, 2010, 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 four hundred fifty-five (455) days. This is also a decision in response to the petition to expedite under 37 C.F.R. § 1.182 filed June 17, 2010.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by four hundred fifty-five (455) days is **GRANTED**.

The petition to expedite is **GRANTED**.

The Office acknowledges submission of the \$200.00 fee set forth in 37 C.F.R. § 1.18(e) and the \$400 fee set forth in 37 C.F.R. § 1.17(f).

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 **four hundred fifty-five (455) 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. : 7,638,605 B2  
APPLICATION NO. : 10/555,407  
DATED : December 29, 2009  
INVENTOR(S) : Dale L. Ludwig

**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 263 days.

Delete the phrase "by 263 days" and insert -- by 455 days--



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**AUG 25 2006**

**OFFICE OF PETITIONS**

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

In re Application of :  
Application No. 10/555,411 : DECISION ON PETITION  
Filed: February 9, 2006 :  
Docket No.: 034005-016 :

This decision is in response to the petition filed June 14, 2006 under 37 C.F.R. § 1.182 to change the name of the inventor.

The petition is **DISMISSED**.

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 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.

The instant petition fails to comply with the procedures outlined above.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from 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 1.182." This is not a final agency decision.

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

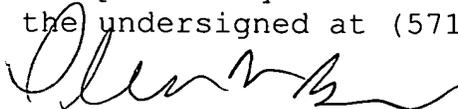
By mail: **Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

By facsimile: (571) 272-8300

By hand:

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

Telephone inquiries concerning this matter may be directed to  
the undersigned at (571) 272-3205.



Alesia M. Brown  
Petitions Attorney  
Office of Petitions



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**JAN 08 2007**

**OFFICE OF PETITIONS**

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

In re Application of :  
Application No. 10/555,411 : DECISION ON PETITION  
Filed: February 9, 2006 :  
Docket No.: 034005-016 :

This decision is in response to the renewed petition filed October 24, 2006 under 37 CFR 1.182 to change the name of the inventor.

The petition is **GRANTED**.

Petitioners herein request the instant change of name: from Eva Sjogren-Jansson to Eva Karin Kilmare.

In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. The petition must include the appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order. See, MPEP 605.04(c).

The petition has been reviewed and found compliant with current Office procedures to effect a correction of inventor name.

This application is being forwarded to Technology Center 1600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown  
Petitions Attorney  
Office of Petitions



19 SEP 2006

Charles R. Hoffman  
Hoffman & Baron, LLP  
6900 Jericho Turnpike  
Syosset, New York 11791

In re Application of :  
SCHILLING et al. :  
Application No.: 10/555,422 :  
PCT No.: PCT/EP04/02822 :  
Int. Filing Date: 18 March 2004 :  
Priority Date: 21 March 2003 :  
Attorney Docket No.: 1093-140PCT/US :  
For: MICROSTRUCTURE AND METHOD :  
FOR PRODUCING :  
MICROSTRUCTURES :

DECISION ON PETITION  
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 21 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 PCT Legal Administration  
Tel.: 571-272-3298  
Facsimile: 571-273-0459



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Charles R Hoffmann  
Hoffmann & Baron  
6900 Jericho Turnpike  
Syosset NY 11791

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**JAN 23 2008**

**OFFICE OF PETITIONS**

Applicant: Schilling et al.  
Appl. No.: 10/555,422  
International Filing Date: March 8, 2004  
Title: MICROSTRUCTURE AND METHOD FOR PRODUCING MICROSTRUCTURES  
Attorney Docket No.: 1093-140 PCT/US  
Pub. No.: 2007/0003876 A1  
Pub. Date: January 4, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on February 22, 2007, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (703) 272-7709.

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



08 JAN 2008

Jeffery E. Bacon  
Milliker & Company  
Legal Department  
920 Milliken Road (M-495)  
Spartanburg SC 29303

In re Application of	:	
POSNETT <i>et al</i>	:	
Application No.: 10/555,466	:	
PCT No.: PCT/EP2004/004905	:	
Int. Filing Date: 07 May 2004	:	DECISION
Priority Date: 07 May 2003	:	
Atty. Docket No.: 9253	:	
For: PROCESS TO MANUFACTURE	:	
HIGH OPACITY KNITTED...	:	

This is a decision on applicants' fax submission filed in the U.S. Patent and Trademark Office (USPTO) on 05 September 2007

**BACKGROUND**

On 07 May 2004, applicants filed international application No. PCT/EP2004/004905 which claimed a priority date of 07 May 2003, and which designated 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 expired 30 months from the priority date, i.e. 07 November 2005.

On 07 November 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the basic national fee and the requisite fee for filing the oath or declaration later than 30 months from the priority date.

On 10 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 that an oath or declaration in compliance with 37 CFR 1.497 was required.

On 07 March 2007, applicants filed a status letter requesting confirmation of receipt of a response allegedly sent 03 August 2006.

On 05 September 2007, applicants filed the present submission again requesting confirmation of receipt of a response allegedly sent 03 August 2006. The submission was

accompanied by a copy of a postcard receipt purportedly establishing that the response, accompanied by, inter alia, declarations of the inventors, was received by the USPTO on 07 August 2006.

On 20 December 2007, the DO/EO/US mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating that the requirements for national stage entry were satisfied on 02 November 2005. Subsequently, the DO/EO/US issued a refund of the requisite fee for filing the oath or declaration later than 30 months from the priority date.

### DISCUSSION

A review of the present submission reveals that it is an unsigned fax communication and therefore cannot be properly accepted as a request to accept the copy of the response in view of the postcard receipt.

However, the above notwithstanding, a review of the application file reveals that the original response and declarations filed 07 August 2006, are located therein. The review also reveals that the declarations are in compliance with 37 CFR 1.497.

The Form PCT/DO/EO/903 mailed 20 December 2007, indicating that the requirements for national stage entry were satisfied on 02 November 2005, and the subsequent refund of the late fee for the declaration were issued in error.

### CONCLUSION

The Form PCT/DO/EO/903 mailed 20 December 2007, is hereby VACATED.

The improperly refunded late fee of \$130 has been changed to counsel's deposit account no. 04-0500.

The application has an international filing date of 07 May 2004, under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (2), and (4) date of 07 August 2006.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision, including the mailing of a corrected PCT/DO/EO/903.



Richard R. Cole  
PCT Legal Examiner  
Office of PCT Legal Administration

(571) 272-3281  
Fax: (571) 273-0459



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7632 SLATE RIDGE BOULEVARD  
REYNOLDSBURG, OH 43068

Mail Date: 04/20/2010

**Applicant** : Roger R. Dzwonczyk : DECISION ON REQUEST FOR  
**Patent Number** : 7657309 : RECALCULATION of PATENT  
**Issue Date** : 02/02/2010 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/555,470 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 11/02/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

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

The patent term adjustment has been determined to be **370** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

23 APR 2008



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Teresan W Gilbert  
The Lubrizol Corporation  
Patent Administrator Mail Drop 022B  
29400 Lakeland Blvd  
Wickliffe OH 44092-2298

In re Application of	:	
FILIPPINI, et al.	:	
U.S. Application No.: 10/555,477	:	
PCT No.: PCT/US04/14336	:	DECISION ON PETITION
Int. Filing Date: 07 May 2004	:	
Priority Date: 07 May 2003	:	UNDER 37 CFR 1.182
Attorney's Docket No.: 3239-01	:	
For: EMULSIFIERS FOR MULTIPLE EMULSIONS	:	

This decision is in response to applicant's "Petition to Claim The Benefit of an Earlier Filing Date Under 37 C.F.R. §1.78(a)(3)" filed 27 March 2008 in the United States Patent and Trademark Office (USPTO). The petition is being treated under 37 CFR 1.182 to correct the error in the Transmittal Letter (Form PTO-1390) filed 03 November 2005. Applicant has provided a petition fee payment of the \$1410.00. The petition fee for a petition under 37 CFR 1.182 is \$400.00. Therefore, \$1010.00 will be refunded to deposit account 50-1501.

**BACKGROUND**

On 07 May 2004, applicant filed international application PCT/US04/14336 which claimed priority to an earlier application filed 07 May 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States was set to expire at midnight on 07 November 2005.

On 03 November 2005, applicant filed a transmittal letter for entry into the national stage in the United States (Form PTO-1390) which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a First preliminary amendment and an Information Disclosure Statement. The transmittal letter did not identify an international application number. The papers were accompanied by a certification under 37 CFR 1.10 which identified the international application as "PCT/US2004/0100904."

On 11 August 2006, applicant faxed in an additional Form PTO-1390 which identified the international application as PCT/US04/14336.

On 16 August 2006, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to

37 CFR 1.136(a). The paper identified the international application as PCT/US04/10904.

On 11 April 2007, applicant was mailed a "Notice of Acceptance" (Form PCT/DO/EO/903) according a date of 13 September 2006 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). The paper identified the international application as PCT/US04/10904.

On 31 January 2008, applicant filed a request for a corrected filing receipt seeking recognition of the subject application as the U.S. National stage entry of international application PCT/US04/14336.

On 27 March 2008, applicant filed the present petition under 37 CFR 1.78 which is being considered pursuant to 37 CFR 1.182.

### DISCUSSION

The identifying information provided on the transmittal letter filed by applicant on 03 November 2005, i.e., the title, applicant-inventor information, priority date, and international filing date all correspond to that of PCT/US04/14336. For these reasons, as well as the explanation provided in the present petition, it has been concluded that the national stage papers filed 03 November 2005 sufficiently identified international application PCT/US04/14336. Pursuant to petitioner's request, the national stage papers assigned U.S. application number 10/555,477 will be treated as a U.S. national stage submission for PCT/US04/14336.

### CONCLUSION

For the reasons above, applicant's "Petition Under 37 CFR 1.182" is **GRANTED**.

The Form PCT/DO/EO/903 mailed 11 April 2007 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for the processing of U.S. application number 10/555,477 as the U.S. national stage application of PCT/US04/14336; specifically, the preparation and mailing of a "Notification of Acceptance" (Form PCT/DO/EO/903) and corrected filing receipt indicating that the present application is the U.S. National stage entry for international application PCT/US04/14336 with a date of **13 September 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).



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



2:1 MAR 2008

EDWARDS ANGELL PALMER & DODGE LLP  
P.O. BOX 55874  
BOSTON MA 02205

In re Application of :  
GUREWITSCH et al. :  
Serial No.: 10/555,503 :  
PCT App. No.: PCT/US04/13720 :  
Int'l Filing Date: 03 May 2004 :  
Priority Date: 02 May 2003 :  
Attorney Docket No.: 61171 :  
For: DEVICES, SYSTEMS AND METHODS :  
FOR BIOIMPEDENCE MEASUREMENT OF :  
CERVICAL TISSUE AND METHODS FOR :  
DIAGNOSIS AND TREATMENT :

DECISION ON  
PETITION UNDER  
37 CFR 1.181

This is a decision on applicant's Petition to Withdraw the Holding of Abandonment treated as a petition under 37 CFR 1.181, filed in the US Patent and Trademark Office on 07 January 2008. No petition fee is required.

### BACKGROUND

On 02 November 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 06 November 2007, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating, that the application went abandoned for failure to respond to a Notification of Missing Requirements mailed 10 August 2006.

On 07 January 2008, applicant filed the present petition requesting that the Office withdraw the holding of abandonment as the applicant had never received the Notification of Missing Requirements.

### DISCUSSION

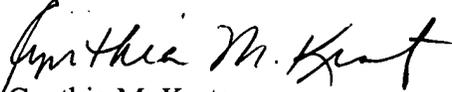
A review of the USPTO records and the application file reveals that the Notification of Missing Requirements was never mailed on 11 April 2006. Therefore, the Notification of Abandonment, indicating that applicant had failed to respond to the 905 within the time period set forth therein, was erroneously issued. For the reasons stated, the 06 November 2007 Notification of Abandonment is vacated.

### CONCLUSION

The petition under 37 CFR 1.181 is GRANTED.

The 06 November 2007 Notification of Abandonment (Form PCT/DO/EO/909) is hereby **VACATED**.

The application will be forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that a 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  
Office of PCT Legal Administration

Telephone: (571) 272-3286

Facsimile: (571) 273-0459



# UNITED STATES PATENT AND TRADEMARK OFFICE

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KENYON & KENYON LLP  
ONE BROADWAY  
NEW YORK, NY 10004

Mail Date: 04/21/2010

<b>Applicant</b>	: Klaus Huber	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7584238	: RECALCULATION of PATENT
<b>Issue Date</b>	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/555,513	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 02/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **742** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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KENYON & KENYON LLP  
ONE BROADWAY  
NEW YORK, NY 10004

Mail Date: 05/18/2010

<b>Applicant</b>	: Klaus Huber	: NOTICE CONCERNING IMPROPER
<b>Patent Number</b>	: 7584238	: CALCULATION OF PATENT TERM
<b>Issue Date</b>	: 09/01/2009	: ADJUSTMENT BASED UPON USPTO
<b>Application No</b>	: 10/555,513	: IMPROPERLY MEASURING REDUCTION
<b>Filed</b>	: 02/06/2006	: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **791** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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



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H.C. PARK & ASSOCIATES, PLC  
8500 LEESBURG PIKE  
SUITE 7500  
VIENNA, VA 22182

Mail Date: 04/20/2010

**Applicant** : Young Kwan Kim : DECISION ON REQUEST FOR  
**Patent Number** : 7664732 : RECALCULATION of PATENT  
**Issue Date** : 02/16/2010 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/555,520 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 11/03/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

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

The patent term adjustment has been determined to be **542** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



# UNITED STATES PATENT AND TRADEMARK OFFICE

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KENYON & KENYON LLP  
ONE BROADWAY  
NEW YORK, NY 10004

Mail Date: 04/21/2010

<b>Applicant</b>	: Klaus Huber	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7580473	: RECALCULATION of PATENT
<b>Issue Date</b>	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/555,527	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 02/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **841** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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OFFICE OF PETITIONS

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

In re Application of	:	
Jun Ido	:	ON APPLICATION FOR
Application No. 10/555,530	:	PATENT TERM ADJUSTMENT
Filed: November 3, 2005	:	
Attorney Docket No. 2257-	:	
0255PUS1	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B) filed June 8, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is nine hundred fifty-four (954) days, not six hundred thirty-eight (638) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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

---

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

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

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



Kery Fries  
Senior Legal Advisor Attorney  
Office of Patent Legal Administration

Docket No.: 2257-0255PUS1  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Jun IDO

Application No.: 10/555,530

Confirmation No.: 9638

Filed: November 3, 2005

Art Unit: 2611

For: DEMODULATION DEVICE AND  
DEMODULATION METHOD

Examiner: K. A. Timory

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT**  
**UNDER 37 CFR § 1.705 (d)**

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

Madam:

Pursuant to CFR § 1.705 (d), the Patentee hereby requests reconsideration of the patent term adjustment indicated on the Notice of Allowance for Application No. ~~10/555,530~~ (Exhibit 1). Specifically, while the Notice of Allowance indicates a patent term adjustment of ~~638 days~~, Patentee submits that the patent term adjustment should correctly be ~~954 days~~.

**STATEMENT OF FACTS**

1. The Notice of Allowance issued in this case on March 10, 009 indicated that the Patent Term Adjustment to date was ~~638 days~~, (see page 3 of Exhibit 1).
2. The U. S. Patent and Trademark Office's Patent Term Adjustment History, as indicated in the Patent Application Information Retrieval (PAIR) system indicates a Patent Term Adjustment due to prosecution delays of ~~638 days~~, based upon ~~638~~ days of USPTO delays minus ~~0~~ days of Applicant delay (see Exhibit 2).

3. However, the PAIR system does not indicate any Patent Term Adjustment due to the USPTO failure to issue a patent within three (3) years (36 months) from the actual filing date of the application, November 3, 2005 (37 C.F.R. § 1.702(b)), which delay was 316 days.
4. In accordance with the recent District Court decision in *Wyeth et al. v. Dudas*, 88 USPQ2d 1538 (D.D.C. 2008), the correct Patent Term Adjustment should be 638 days of prosecution delay, plus 316 days for the failure of the USPTO to issue a patent within three (3) years of the actual filing date of the application (37 C.F.R. § 1.702(b)), for a total of 954 days of Patent Term Adjustment.
5. Accordingly, Patentee hereby requests that the U. S. Patent and Trademark Office correct the calculation of the Patent Term Adjustment for the above-identified patent to 954 days.

**COMPLIANCE WITH REQUIREMENTS OF  
37 CFR § 1.705 (b)(1) AND (2)**

6. A statement of facts is presented above, detailing the relevant dates and the correct patent term adjustment.
7. The present patent is not subject to any Terminal Disclaimer or any expiration date specified in a Terminal Disclaimer (§ 1.705(b)(2)(iii)).
8. There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the above-identified application (§ 1.705(iv)(B)).

**CONCLUSION**

The USPTO is requested to correctly indicate that U.S. Application No. 10/555,530 is entitled to 954 days of Patent term Adjustment.

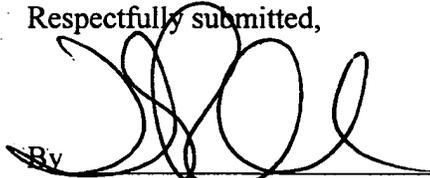
**PAYMENT OF FEES**

As set forth in the attached Fee Transmittal, the Commissioner is hereby authorized to charge the amount of \$200.00 to Deposit Account No. 02-2448 for the consideration of this Request as required by 37 C.F.R. § 1.18(e).

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: JUN 08 2009

Respectfully submitted,



By  
D. Richard Anderson  
Registration No.: 40,439  
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Attorney for Applicant



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**OFFICE OF PETITIONS**

In re Patent No. 7,580,466 :  
Jun Ido :  
Issue Date: August 25, 2009 :  
Application No. 10/555,530 : DECISION ON REQUEST FOR  
Filed: November 3, 2005 : RECONSIDERATION OF  
Attorney Docket No. 2257- : PATENT TERM ADJUSTMENT  
0255PUS1 :  
Title: Demodulation Device and :  
Demodulation Method :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed October 23, 2009. Patentee requests the final PTA calculation to increase total PTA from 638 days to 933 days.

The application for reconsideration of patent term adjustment is **Dismissed**.

The above-identified application matured into U.S. Patent No. 7,580,466 on August 25, 2009. The patent issued with a patent term adjustment of 638 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d). Patentee requests that the patent term adjustment determination for the above-identified patent be changed from 638 days to 933 days.

Patentee requests 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). Patentee asserts that pursuant to Wyeth, patentee is entitled to 295 additional days over the USPTO calculation for a total of 933 days. Patentee maintains that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 295 days, does not overlap with the 638 day period of adjustment due to examination

delay, pursuant to 37 CFR §1.702(a), as these periods do not occur on the same day.

Thus, patentee requests that the determination of patent term adjustment be increased by 295 days to a total of nine hundred thirty-three (933) days (the sum of the period of three-year delay (295 days) and the period of examination delay (638 days)).

Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

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

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of

delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 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).

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application commenced overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application commenced, November 3, 2005, until the issuance of the patent on August 25, 2009. 638 days of patent term adjustment were accorded for Office delay pursuant to 37 CFR §1.702(a)(1). Entry of both 295 days pursuant to 37 CFR §1.702(b) and 638 days pursuant to 37 CFR §1.702(a) is neither permitted nor warranted. The Office did not delay 638 days and then another 295 days. The greater period, 638 days, is the actual number of days issuance of the patent was delayed by the Office.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

In view thereof, the Office affirms that the revised determination of patent term adjustment indicated on the patent at issuance of the patent is 683 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 Petitions Attorney Charlema Grant, at (571) 272-3215.

/Kery A. Fries/

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



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Commissioner for Patents  
United States Patent and Trademark Office  
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KNOBBE MARTENS OLSON & BEAR, LLP  
2040 MAIN STREET, 14<sup>TH</sup> FLOOR  
IRVINE, CA 92614

**COPY MAILED**

**AUG 15 2008**

In re Application of :  
OHMIYA, ET AL. :  
Application No. 10/555,544 : DECISION ON PETITION  
Filed: November 4, 2005 : TO WITHDRAW  
Attorney Docket No. 2008\_0998 : FROM RECORD  
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 16, 2008.

The request is DISMISSED as moot.

A review of the file record indicates that the power of attorney to KNOBBE MARTENS OLSON & BEAR, LLP has been revoked by the assignee of the patent application on July 11, 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 inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves  
Petitions Examiner  
Office of Petitions

CC: WARREN M. CHEEK, JR.  
WENDEROTH LIND & PONACK, LLP.  
2033 K STREET NW, SUITE 800  
WASHINGTON, DC 20006



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LAW OFFICE OF MICHAEL A. SANZO, LLC  
15400 CALHOUN DR.  
SUITE 125  
ROCKVILLE MD 20855

**MAILED**

**AUG 17 2009**

**OFFICE OF PETITIONS**

In re Application of :  
Zimmermann et al. :  
Application No. 10/555,546 : LETTER REGARDING  
Filed: November 4, 2005 : PATENT TERM ADJUSTMENT  
Attorney Docket No. 7601/84417:

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT CALCULATION", filed February 20, 2009. Applicants request that the determination of patent term adjustment under 35 U.S.C. § 154(b) be reviewed for accuracy. This petition is properly treated under 37 CFR 1.705(b).

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is six hundred twenty-seven (**627**) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 11, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is (641) days.

Applicants question whether the patent term adjustment pursuant to 35 USC 154(b) of 641 days indicated on the Determination of Patent Term Adjustment may extend the patent term by too many days.

A review of the application history confirms an error.

A period of reduction of 14 days should have been entered based on 37 CFR 1.704(c)(8). 37 CFR §1.704(c)(8) provides that a period of reduction is entered for:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

In this instance, after the filing of a response on December 30, 2008, applicants filed a supplemental response on January 13, 2009, in the form of a supplemental IDS. The record supports a conclusion that the IDS was not expressly requested by the examiner. Accordingly, the PTA should have been reduced by 14 days, the number of days beginning on the day after the date the initial reply was filed, December 31, 2008, and ending on the date that the supplemental reply or other such paper was filed, January 13, 2009.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is six hundred twenty seven (627) days.

As this letter was submitted as an advisement to the Office of an error against applicants' favor, the Office will not assess the \$200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being 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 Petitions Attorney Charlema Grant at (571) 272-3215.

*Kery Fries*

Kery Fries  
Senior Legal Advisor Attorney  
Office of Patent Legal Administration

Enclosure: Copy of REVISED PALM Screen

Day : Friday  
Date: 8/14/2009**PALM INTRANET**

Time: 11:18:24

PTA Calculations for Application: <u>10/55546</u>			
Application Filing Date:	11/04/2005	PTO Delay (PTO):	641
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	627
PTO Delay Adjustment:	-14		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
60	08/14/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		14	
52	02/11/2009	MAIL NOTICE OF ALLOWANCE			
51	02/11/2009	ISSUE REVISION COMPLETED			
50	02/11/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
49	02/06/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
48	02/06/2009	DOCUMENT VERIFICATION			
47	02/06/2009	EXAMINER'S AMENDMENT COMMUNICATION			
46	02/05/2009	NOTICE OF ALLOWABILITY			
45	01/13/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	12/30/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	01/13/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	01/20/2009	DATE FORWARDED TO EXAMINER			
26	12/30/2008	RESPONSE AFTER NON-FINAL ACTION			
25	12/30/2008	REFERENCE CAPTURE ON IDS			
24	12/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	12/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	10/06/2008	MAIL NON-FINAL REJECTION	641		-1
21	10/01/2008	NON-FINAL REJECTION			
20	11/06/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	06/17/2008	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
18	06/17/2008	REFERENCE CAPTURE ON IDS			
17	06/17/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	06/17/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
14	11/06/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	01/03/2007	CORRESPONDENCE ADDRESS CHANGE			
12	12/14/2006	CORRESPONDENCE ADDRESS CHANGE			
11	09/18/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	09/18/2006	CASE DOCKETED TO EXAMINER IN GAU			
9	11/04/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
8	11/04/2005	PRELIMINARY AMENDMENT			
7	08/04/2006	CLEARED BY OIPE CSR			
6	11/07/2005	371 COMPLETION DATE			
5	08/04/2006	APPLICATION DISPATCHED FROM OIPE			
4	08/04/2006	NOTICE OF DO/EO ACCEPTANCE MAILED			
3	08/03/2006	CORRESPONDENCE ADDRESS CHANGE			
2	11/16/2005	PCT CLASSIFICATION			
1	11/04/2005	INITIAL EXAM TEAM NN			

Search Another: Application#

### EXPLANATION OF PTA CALCULATION

### EXPLANATION OF PTE CALCULATION

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

Back to [OASIS](#) | Home page



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LAW OFFICE OF MICHAEL A. SANZO, LLC  
15400 CALHOUN DR.  
SUITE 125  
ROCKVILLE MD 20855

MAILED

JUN 18 2010

OFFICE OF PETITIONS

In re Patent No. 7,588,697	:	
Zimmermann et al.	:	DECISION ON REQUEST FOR
Issue Date: September 15, 2009	:	RECONSIDERATION OF
Application No. 10/555,546	:	PATENT TERM ADJUSTMENT
Filed: November 4, 2005	:	AND NOTICE OF INTENT
Attorney Docket No. 7601/84417	:	TO ISSUE CERTIFICATE OF
Title: COATED SODIUM	:	CORRECTION
PERCARBONATE GRANULES WITH	:	
IMPROVED STORAGE STABILITY	:	

This is a decision on the petition filed on October 19, 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 an additional three hundred sixteen (316) days for a total patent term adjustment of nine hundred fifty-seven (957) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred thirty-six (936) days<sup>1</sup> is **GRANTED to the extent indicated herein.**

<sup>1</sup> The "A" delay is 638 days, not 641 days. Patentees calculated this period based on the date the application papers were deposited in the Office November 4, 2005. However in an international application the 37 CFR 1.702(a)(1) adjustment is based upon the failure to mail a first Office action or Notice of Allowance within fourteen months after the date the application fulfilled the requirements of 35 U.S.C 371. See 37 CFR 1.702(b). The fulfillment date in this application is November 7, 2005. Thus, "A" delay is 638 days, counting the number of days beginning January 8, 2007 and ending October 6, 2008, the day the first Office action was mailed.

The "B" delay period is 312 days. Patentees calculated this period based on the date the application papers were deposited in the Office November 4, 2005. However, in an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 37 CFR 1.702(b). The priority date of this application is May 7, 2003. As a

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by nine hundred thirty-six (936) days.

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



Anthony Knight  
Director  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

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request for early commencement was not made, the national stage commenced in this application on November 7, 2005. Thus, "B" delay is 312 days, counting the number of days beginning on November 8, 2008 and ending on September 15, 2009, the day of issuance. See 1.703(b).

UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,588,697 B2

DATED : September 15, 2009

DRAFT

INVENTOR(S) : Zimmerman 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 641 days

Delete the phrase "by 641 days" and insert – by 936 days--



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Gary R. Plotecher  
Whyte Hirschboeck Dudek S.C.  
555 East Wells Street, Suite 1900  
Milwaukee WI 53202

**COPY MAILED**

**AUG 11 2008**

In re Application of :  
Stanley E. Wilson :  
Application No. 10/555,548 : DECISION ON PETITION  
Filed: November 4, 2005 :  
Attorney Docket No. 63203A :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 16, 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 April 17, 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 \$1540.00, and (3) a proper statement of unintentional delay.

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

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

  
Irvin Dingle  
Petitions Examiner  
Office of Petitions



05 JAN 2006

Robert E. Zielinski  
Wolf, Block, Schorr and Solis-Cohen, LLP  
1650 Arch Street, 22<sup>nd</sup> Floor  
Philadelphia, PA 19103

In re Application of	:	
MCDONALD	:	DECISION ON PETITION
Application No.: 10/555,557	:	
PCT No.: PCT/US03/039589	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 12 December 2003	:	
Priority Date: 18 December 2002	:	
Atty. Docket No.: INN009PCT	:	
For: CLEANING AND SURFACE PREPARATION	:	
DEVICE	:	

The petition to revive under 37 CFR 1.137(b) filed 04 November 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for the preparation and mailing of a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventor is required.

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



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DANISCO US INC.  
ATTENTION: LEGAL DEPARTMENT  
925 PAGE MILL ROAD  
PALO ALTO, CA 94304

MAILED  
MAY 17 2010  
OFFICE OF PETITIONS

In re Application of :  
**Brian E. JONES**, et al. :  
Application No. 10/555,560 :  
Filed: November 20, 2006 :  
Attorney Docket No. **GC802-2-US** :  
DECISION GRANTING PETITION  
UNDER 37 CFR 1.313(c)(3)

This is a decision on the petition, filed May 14, 2010, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

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



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

*In re* Application of:  
FUDERER, MIHA  
Serial No.: 10/555,574  
Filed: Nov. 4, 2005  
Docket: PHNL030463US  
Title: UNDERSAMPLED MAGNETIC  
RESONANCE IMAGING

10/15/09  
DECISION ON PETITION

This is a decision on the petition filed on October 13, 2009 seeking withdrawal of the finality of the Office action mailed August 21, 2009. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is granted.

It is noted that the record shows that at least claim 1 was not amended in the amendment filed on November 18, 2008. Therefore, the rejection of at least claim 1 was not necessitated by the amendment filed on November 18, 2008. As such, the finality of the Office actions issued on August 21, 2009 is premature and thus the finality of the action is hereby withdrawn. The Office action mailed on August 21, 2009 has been designated as non-final Office action. The amendment filed on October 13, 2009 is treated and entered as Rule 1.111 amendment.

In finding petitioner's points of argument persuasive, the requested relief is granted. The finality of the last Office action mailed August 21, 2009 is hereby withdrawn. The requested relief is granted.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3768 for entry and consideration of the amendment of October 15, 2009. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

The petition is GRANTED.

Robert Olszewski, Director  
Technology Center 3700



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AKZO NOBEL INC.  
LEGAL & IP  
120 WHITE PLAINS ROAD, SUITE 300  
TARRYTOWN, NY 10591

Mail Date: 04/20/2010

<b>Applicant</b>	: Mahnaz Company	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7608576	: RECALCULATION of PATENT
<b>Issue Date</b>	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/555,578	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 11/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **427** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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

Mail Date: 04/20/2010

<b>Applicant</b>	: Helge Bettina Kniess	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7611574	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/555,592	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 10/10/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **602** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



KENYON & KENYON LLP  
ONE BROADWAY  
NEW YORK NY 10004

23 MAR 2007

In re Application of	:	
UEYAMA et al	:	DECISION ON
Application No.: 10/555,610	:	
PCT No.: PCT/JP2004/005331	:	
Int. Filing Date: 07 May 2003	:	PETITION UNDER
Priority Date: 14 April 2004	:	
Attorney Docket No.: 13539/2	:	
For: DENTAL CEMENT COMPOSITION	:	37 CFR 1.182

This decision is in response to applicants' "Response to Notification of Missing Requirements" filed on 08 January 2007 with the correct name of the second inventor as Hiroshi MOHRI. This is being treated as a petition under 37 CFR 1.182.

**BACKGROUND**

On 14 April 2004, applicants filed international application No. PCT/JP2004/005331, which claims a priority date of 07 May 2003.

On 02 November 2005, applicants filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee, and an executed declaration.

On 13 November 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. The current declaration does not comply with 37 CFR 1.497(a) and (b) in that the second inventor's last name on the declaration does not correspond with the name on the published application." The notification indicated that a new oath or declaration must be submitted within two (2) months from the date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

In the declaration section pertaining to the second named inventor, the name Hiroshi MOHRI appears; this name did not appear in the international application which is Hiroshi MORI.

On 08 January 2007, applicants submitted, *inter alia*, "Petition" and stating that the correct name of the second inventor is Hiroshi Mohri and it was erroneously indicated as MORI, Hiroshi on the international publication.

### DISCUSSION

However, it is unclear from the submission whether the corrected name is due to a name change or a typographical error since applicant has provided no specific explanation. Therefore, the declaration of the inventors is not acceptable at this time, in that the name of the named inventor, Hiroshi Mohri, does not correspond to that set forth in the international application, Hiroshi Mori.

MPEP § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Applicant must provide items (1) and (2) for consideration. Alternatively, applicants may provide a showing that the name change was effected in accordance with PCT Rule 92Bis prior to the filing of the present national stage application.

Also, in the case where there is no change name of the individual but an incorrect name was given, a petition under **37 CFR 1.182** is required requesting correction of applicant's name

If, however, the name change is due to a typographical error then applicant needs to state and explain it by filing a petition under 37 CFR 1.181. If filed under 37 CFR 1.181 the reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

For the reasons above, the application may not enter into national stage processing at this time.

### CONCLUSION

The petition under 37 CFR 1.182 is **DISMISSED**, without prejudice.

A proper response to the Notice must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file 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



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10 SEP 2007

KENYON & KENYON LLP  
ONE BROADWAY  
NEW YORK NY 10004

In re Application of	:	
UEYAMA et al	:	DECISION ON RENEWED
Application No.: 10/555,610	:	
PCT No.: PCT/JP2004/005331	:	
Int. Filing Date: 07 May 2003	:	PETITION UNDER
Priority Date: 14 April 2004	:	
Attorney Docket No.: 13539/2	:	
For: DENTAL CEMENT COMPOSITION	:	37 CFR 1.182

This is in response to applicants' submission "PETITION UNDER 37 C.F.R. 1.182" filed on 26 MAY 2006. This submission states that the correct applicant's name is Hiroshi MOHRI not Hiroshi MORI for the second joint inventor. The petition fee of \$130.00 has been charged petitioner's Deposit Account No.: 11-0600 as stipulated on the petition.

**BACKGROUND**

In a 23 March 2007 decision from this Office, the decision indicated that the application could not enter into national stage at that time since it was unclear if the current name was a result of a to a name change or typographical error.

On 25 March 2007, applicant filed a petition under 37 CFR 1.182 indicating that the correct name is "Hiroshi MOHRI" and not as listed "Hiroshi MORI."

**DISCUSSION**

The correct name of the fourth inventor is "Hiroshi MOHRI" as indicated in the declaration submitted. The affidavit provided states that his correct name is Hiroshi MOHRI and this will be reflected in the U.S. national stage processing.

Applicants' response is accepted as a sufficient response to the Notification of Missing Requirements (FORM PCT/DO/EO/905) mailed on 13 November 2006.

**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 **02 November 2005.**



Rafael Bacares

PCT Legal Examiner

PCT Legal Office

Telephone: (571) 272-3276

Facsimile: (571) 273-3276



10/555,615

2

Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

*James Thomson*

James Thomson  
Attorney Advisor  
Office of PCT Legal Administration

Tel.: (571) 272-3302

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24 FEB 2006

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

Laaong Silaprom  
403 West 46<sup>th</sup> Street  
New York, NY 10036

In re Application of	:	
SILAPROM, Laaong	:	
U.S. Application No.: 10/555,615	:	DECISION ON RENEWED
PCT No.: PCT/GB03/02177	:	PETITION FOR REVIVAL
International Filing Date: 20 May 2003	:	(37 CFR 1.137(b))
Priority Date: 20 May 2002	:	
Attorney's Docket No.: None	:	
For: IMPROVEMENT IN GREETING CARDS	:	

In a decision mailed on 27 December 2005, applicant's petition under 37 CFR 1.137(b) was dismissed without prejudice for failure to submit all the requirements of a grantable petition. Specifically, applicant had not submitted the required basic national fee.

On 01 February 2006, applicant filed correspondence via facsimile which has been treated herein as a renewed petition. The renewed petition was accompanied by a payment of the \$150 small entity basic national fee. Applicant has therefore satisfied all the requirements for a grantable petition under 37 CFR 1.137(b).

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

The application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations 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



17 JAN 2008

Deborah Chess  
Honeywell International  
101 Columbia Road  
Morristown, NJ 07962

In re Application of :  
SEVERIN, Emmanuel :  
Application No.: 10/555,622 :  
PCT No.: PCT/EP03/04757 :  
Int. Filing Date: 06 May 2003 :  
Priority Date: None :  
Attorney Docket No.: WO 37444 :  
For: TAMPER PROOF AND CALIBRATION :  
DEVICE, ESPECIALLY FOR A :  
TURBOCHARGER WITH A VARIABLE :  
NOZZLE DEVICE :

DECISION ON PETITION  
UNDER 37 CFR 1.137(b)

This decision is issued in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office (PTO) on 13 December 2007.

### BACKGROUND

On 06 May 2003, applicant filed international application PCT/EP03/04757 which claimed no priority date. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the international filing date, 06 November 2005.

On 04 November 2005, applicant filed a Transmittal Letter for entry into the national stage accompanied, *inter alia*, by: the requisite basic national fee and a copy of the international application.

On 04 August 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) along with a surcharge for providing the oath or declaration later than 30 months from the priority date was required. The notification set a two (2) month period for response.

On 07 December 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the above

Application No.: 10/555,622

identified application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 04 August 2006 within the time period set therein.

On 13 December 2007, applicant filed "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)."

### DISCUSSION

The above-identified application was abandoned for failure to respond to the Notification of Missing Requirements mailed 04 August 2006.

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

With regard to Item (1), the proper response is the submission of the declaration of the inventors which complies with 37 CFR 1.497(a) and (b).

#### *Declaration of Inventorship submitted on 16 September 2006*

Applicant states in the present petition that "a response to the Notification of Missing parts was filed on 9/16/06, however, due to a typographical error an incorrect serial number was typed on the cover letter and declaration." The Office has reviewed the declaration submitted 16 September 2006 that was place in U.S. application no. 10/522,622, due to applicant's error. A review of the declaration filed on 16 September 2006 reveals that it is not in compliance with 37 CFR 1.497. Specifically, the declaration fails to properly identify the specification to which it is directed in that the declaration incorrectly identifies the specification executed as U.S. application no. 10/522,622.

#### *Declaration of Inventorship submitted on 13 December 2007*

The declaration filed 13 December 2007 is not in compliance with 37 CFR 1.497(a)-(b), in that, alterations were made to the declaration after it was executed. Specifically, the declaration submitted with the present petition includes information (the corrected U.S. application number, 10/555,622) that was not contained on the declaration filed 16 September 2006 and these alterations have been made after the declaration had been executed by the inventor. (It appears that counsel has resubmitted the previously filed declaration with a corrected page one of two. This conclusion is based on the execution date by the sole inventor has not changed.)

37 CFR 1.52(c) states:

Application No.: 10/555,622

(c) Any interlineation, erasure, cancellation or other alteration of the application papers filed should be made before the signing of any accompanying oath or declaration pursuant to § 1.63 referring to those application papers and should be dated and initialed or signed by the applicant on the same sheet of paper. Application papers containing alterations made after the signing of an oath or declaration referring to those application papers must be supported by a supplemental oath or declaration under 1.67.

Additionally, section 605.04(a) of the MPEP states in part:

In summary, it is emphasized that the application filed must be the application executed by the applicant and **it is improper for anyone, including counsel**, to alter, rewrite, or partly fill in any part of the application, **including the oath or declaration**, after execution of the oath or declaration by the applicant (emphasis added).

Therefore, the copy of the declaration filed cannot be accepted at this time and a newly executed declaration is required.

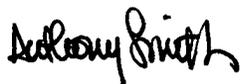
### **CONCLUSION**

Applicant's petition for revival under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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



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



26 FEB 2008

Deborah Chess  
Honeywell International  
101 Columbia Road  
Morristown, NJ 07962

In re Application of :  
SEVERIN, Emmanuel :  
Application No.: 10/555,622 :  
PCT No.: PCT/EP03/04757 :  
Int. Filing Date: 06 May 2003 :  
Priority Date: None :  
Attorney Docket No.: WO 37444 :  
For: TAMPER PROOF AND CALIBRATION :  
DEVICE, ESPECIALLY FOR A :  
TURBOCHARGER WITH A VARIABLE :  
NOZZLE DEVICE :

DECISION ON PETITION  
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 07 February 2008 in the above-captioned application is hereby **GRANTED** as follows:

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

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

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

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



05 OCT 2007

Paul Grandinetti  
Levy & Grandinetti  
Suite 408  
1725 K Street N.W.  
Washington DC 20006-1419

In re Application of	:	
LANTSBURY, Denis et al.	:	
Application No.: 10/555,650	:	DECISION ON
PCT No.: PCT/GB2004/002003	:	
Int. Filing Date: 07 May 2004	:	PETITION
Priority Date: 09 May 2003	:	
Attorney Docket No.: 124143-00101	:	UNDER 37 CFR 1.183
For: WHEEL STUDS	:	

This decision is in response to applicant's "Petition Under 37 C.F.R. §1.183," filed on 18 June 2007.

### BACKGROUND

On 07 May 2004, applicant filed international application PCT/GB2004/002003, which claimed a priority date of 09 May 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 18 November 2004. The deadline for entry into the national stage in the United States was thirty months from the priority date, 09 November 2005.

On 04 November 2004, applicant submitted a transmittal letter to the national office accompanied by the basic national fee.

On 17 November 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the search fee, examination fee or oath or declaration was required.

On 18 June 2007, applicant submitted a declaration of the inventors, the fee for a five month extension of time and a petition under 37 CFR 1.183.

### DISCUSSION

The petition fee for the petition under 37 CFR 1.183 will be charged to deposit account no. 23-2185, as authorized.

Mr. Higgins submitted a declaration executed by the two inventors. The declaration directs correspondence to the above address. 37 CFR 1.33(a)(2). Mr. Higgins files this petition to redirect correspondence back to himself at Blank Rome LLP. Mr. Higgins is currently filing papers under 37 CFR 1.34, in a capacity specifically excluded from the authorization to change correspondence address under 37 CFR 1.33(a)(2).

Provision 37 CFR 1.183 states:

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party...

Mr. Higgins has not demonstrated that he represents an interested party, See 37 CFR 3.71, has not explained why justice requires waiver of 37 CFR 1.33 or explained why provisions 37 CFR 3.71 and 37 CFR 1.33(b)(3) allowing the assignee to prosecute the application and to change the correspondence address, respectively, are insufficient.

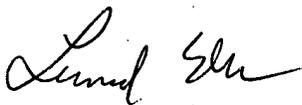
**CONCLUSION**

For the reasons set forth above, the petition under 37 CFR 1.183 is **DISMISSED** without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. 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 1.183."

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 National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 18 June 2007.



Leonard E. Smith  
Supervisory PCT Legal Examiner  
PCT Legal Administration

Erin P. Thomson  
Attorney Advisor  
PCT Legal Administration

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

cc: BLANK ROME LLP  
600 NEW HAMPSHIRE AVENUE, N.W.  
WASHINGTON DC 20037



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Mailed: 9-13-06  
In re application of  
Ohata, et al.  
Serial No. 10/555,657  
Filed: November 4, 2005  
For: SECONDARY BATTERY

DECISION ON  
PETITION

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 13<sup>th</sup> Street, N.W.  
Washington, DC 20005



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**LADAS & PARRY LLP**  
**26 WEST 61<sup>ST</sup> STREET**  
**NEW YORK, NY 10023**

**COPY MAILED**  
**MAR 26 2008**

In re Application of :  
Ernesto Duran LOPEZ :  
Application No. 10/555,659 : DECISION ON PETITION  
Filed: December 19, 2006 :  
Attorney Docket No. 12810-00022-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 9, 2008 and the renewed petition filed on February 19, 2008 , to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before January 5, 2008. As required by the Notice of Allowance and Fee(s) Due, mailed October 5, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 6, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of \$720 and Publication Fee of \$300; (2) the petition fee of \$770; and (3) the required statement of unintentional delay.

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

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

April Wise  
Petitions Examiner  
Office of Petitions



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

**COPY MAILED**

JUL 23 2007

In re Application of  
**BORCIC, Sandra-Agata et al.**  
Application No. 10/555,666  
Filed: November 04, 2005  
Attorney Docket No. **449122084800**

**OFFICE OF PETITIONS**

DECISION ON PETITION  
TO WITHDRAW  
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed 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: **SANDRA-AGATA BORCIC**  
**II MAKSIMIRSKONASELJE 13**  
**10000 ZAGREB**  
**CROATIA**

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**

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 United States Patent and Trademark Office  
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 Alexandria, Virginia 22313-1450  
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/555,666	11/04/2005	Sandra-Agata Borcic	449122084800

**CONFIRMATION NO. 9912**


\*OC000000024923062\*

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.

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

FORMER ATTORNEY/AGENT COPY



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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.

**Magdalene Talley**  
For Mary F. Diggs, Supervisor  
Decisions & Certificates  
of Correction Branch  
(703) 308-9390 ext. 116

Roylance, Abrams,  
Berdo & Goodman, LLP  
1300 19<sup>th</sup> Street, NW  
Washington, DC 20036

MD/mt



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SUITE 600  
WASHINGTON, DC 20036

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**OCT 28 2008**

**OFFICE OF PETITIONS**

In re Patent No. 7,396,460 :  
Issue Date: July 8, 2008 :  
Application No. 10/555,667 : ON PETITION  
Filed: November 7, 2005 :  
Patentee(s): Ralf Wnuk, et. al. :

This is a decision on the petition filed July 28, 2008 and August 15, 2008, which is being treated as a request under 37 CFR 3.81<sup>1</sup>, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

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

Andrea Smith  
Petitions Examiner  
Office of Petitions

---

<sup>1</sup>See *Official Gazette of June 22, 2004*



14 MAR 2007

Philips Electronics North America Corporation  
P O Box 3001  
Briarcliff Manor, NY 10510

In re Application of	:	
Feng et al.	:	
Application No.: 10/555,676	:	
PCT No.: PCT/IB04/50612	:	
Int. Filing Date: 06 May 2004	:	COMMUNICATION
Priority Date: 09 May 2003	:	
Attorney Docket No.: CN 030012	:	
For: Systems And Methods For Seamlessly Roaming	:	
Between A Wireless Wide Area Network And A...	:	

This is in response to the correspondence filed on 18 October 2006.

**BACKGROUND**

This international application was filed on 06 May 2004, claimed a priority date of 09 May 2003, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 18 November 2004. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 09 November 2005. On 04 November 2005, applicants filed *inter alia* the basic national fee.

On 17 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).

**DISCUSSION**

In response to the Notification of Missing Requirements mailed on 17 August 2006, applicants have provided copies of a three-sheet declaration, a Transmittal Letter, and a return postcard receipt itemizing (*inter alia*) a "Decl. - signed." The postcard receipt is stamped as having been "Rec'd PCT/PTO 04 NOV 2005." Review of the Image File Wrapper (IFW) for this application reveals that a declaration filed on 04 November 2005 is present in the application file, but said declaration consists of only a single sheet ("page 1 of 3"). MPEP 503 states 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 declaration filed on 04 November 2005 consisted of a single page. The evidence proffered to show otherwise (i.e., the postcard receipt offered as evidence of the filing of a three-page declaration) is not sufficient to overcome the contrary indication on the official record because said postcard does not specifically itemize the number of pages included in the declaration. As such, it does not clearly show that a declaration consisting of more than a single page was in fact filed on 04 November 2005. As such, it would be inappropriate on the basis of the present record to accept the copy of the declaration, filed on 18 October 2006, as being a copy of the declaration document filed on 04 November 2005. Instead, the three-page declaration filed on 18 October 2006 is being treated as having been filed on 18 October 2006.

Review of the declaration filed on 18 October 2006 reveals that the surname of the 6<sup>th</sup> inventor, "Jin," differs from the surname of the 6<sup>th</sup> inventor nominated in the published international application, "Jing." There appears to be no indication of record regarding the origin of this discrepancy - e.g., whether it arose from a mere typographical error or phonetic misspelling, or whether it had some other origin. The record also includes no evidence that the name was changed pursuant to PCT Rule 92*bis*. To the extent that this discrepancy represents more than a mere typographic error or phonetic misspelling of applicant's name, a petition and fee under 37 CFR 1.182 (or a newly executed oath or declaration nominating the same inventive entity as the published international application) is required. *See* MPEP § 605.04(b) and MPEP § 201.03(b).

### CONCLUSION

The declaration filed on 18 October 2006 **NOT ACCEPTED**, without prejudice.

Applicants are required to file a declaration compliant with 37 CFR 1.497(a) and (b), or else perfect the declaration filed on 18 October 2006 as described above, within a time limit of **ONE (1) MONTH** from the mailing date of this communication. Extensions of time under 37 CFR 1.136(a) are **NOT** available. Failure to timely file a complete and proper 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 correspondence to the attention of the Office of PCT Legal Administration.



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



11 JUN 2007

Philips Electronics North America Corporation  
P O Box 3001  
Briarcliff Manor, NY 10510

In re Application of	:	
Feng et al.	:	
Application No.: 10/555,676	:	
PCT No.: PCT/IB04/50612	:	
Int. Filing Date: 06 May 2004	:	DECISION
Priority Date: 09 May 2003	:	
Attorney Docket No.: CN 030012	:	
For: Systems And Methods For Seamlessly Roaming	:	
Between A Wireless Wide Area Network And A...	:	

This is in response to the correspondence filed on 12 April 2007.

**DISCUSSION**

In a Communication mailed on 14 March 2007, the correspondence filed on 18 October 2006 was treated, and the declaration filed on 18 October 2006 was not accepted, without prejudice, because

Review of the declaration filed on 18 October 2006 reveals that the surname of the 6<sup>th</sup> inventor, "Jin," differs from the surname of the 6<sup>th</sup> inventor nominated in the published international application, "Jing." There appears to be no indication of record regarding the origin of this discrepancy - e.g., whether it arose from a mere typographical error or phonetic misspelling, or whether it had some other origin. The record also includes no evidence that the name was changed pursuant to PCT Rule 92bis. To the extent that this discrepancy represents more than a mere typographic error or phonetic misspelling of applicant's name, a petition and fee under 37 CFR 1.182 (or a newly executed oath or declaration nominating the same inventive entity as the published international application) is required. See MPEP § 605.04(b) and MPEP § 201.03(b).

In response, counsel asserts that the relevant inventor's "correct surname is - JIN - not 'Jing' as it appeared on the World Publication document. The misspelling of his name was due to a typographical error." This assertion is corroborated by an accompanying "Affidavit" signed by Xiaohui Jin, stating that

*This is to certify that my correct name as it appears on the U.S. Declaration is*

*- Xiaohui JIN -*

*The World Publication document WO2004/100452-A1 Listed my name incorrectly as "Xiaohui JING" as a result of a typographical error.*

In view of this showing, it would now be appropriate to accept the declaration filed on 18 October 2006 for purposes of compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

The declaration filed on 18 October 2006 is ACCEPTED, as noted above.

This application is being forwarded to the National Stage Processing Branch for further treatment. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is 18 October 2006.



George Dombroske  
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UNITED STATES PATENT AND TRADEMARK OFFICE

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**MAILED**

**APR 14 2009**

**OFFICE OF PETITIONS**

In re Application of :  
Van As et al :  
Application No. 10/555,686 : **DECISION ON PETITION**  
Filed: November 4, 2005 :  
Attorney Docket No. NL 040233 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 18, 2009 to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply received February 18, 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 2873 for appropriate action by the Examiner in the normal course of business on the reply received February 18, 2009.

  
Karen Creasy  
Petitions Examiner  
Office of Petitions



25 SEP 2006

Buchanan Ingersoll  
Burns Doane Swecker & Mathis  
P O Box 1404  
Alexandria VA 22313-1404

In re Application of:	:	
ERIKSSON, Peter, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/555,694	:	CHANGE INVENTOR'S NAME
PCT No.: PCT/EP2004/005033	:	(37 CFR 1.182)
International Filing Date: 10 May 2004	:	
Priority Date: 08 May 2003	:	
Attorney's Docket No.: 034005-017	:	
For: A METHOD FOR EFFICEINT	:	
TRANSFER OF HUMAN	:	
BLASTOCYST DERIVED STEM	:	
CELLS ... TO A FEEDER-FREE	:	
CULTURE SYSTEM	:	

This decision is issued in response to the "Change Of Name Petition Pursuant To 37 CFR 1.182" filed by applicants on 15 June 2006. Applicants have paid the required \$400 petition fee.

**BACKGROUND**

On 10 May 2004, applicants filed international application PCT/EP2004/005033. The international application claimed a priority date of 08 May 2003, and it designated the United States. On 18 November 2004, the International Bureau (IB) communicated a copy of the international application to the United States Patent And Trademark Office (USPTO). The published international application identified four applicant/inventors for purposes of the United States: Peter ERIKSSON, Eva SJOGREN-JANSSON, Tommi TALLHEDEN, and Sven ENERBACK.

The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 08 November 2005.

On 04 November 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 14 February 2006, applicants filed an executed declaration and payment of the surcharge for filing the declaration later than thirty months after the priority date. However, the name of the second inventor listed on the declaration did not correspond to this inventor's name as listed on the international application. Specifically, this inventor is identified as Eva Karin

KILMARE on the declaration, while she was identified as Eva SJOGREN-JANSSON on the international application.

On 15 June 2006, applicants filed the petition considered herein, which seeks to change the name of record for inventor Eva SJOGREN-JANSSON to Eva Karin KILMARE.

### DISCUSSION

Applicants' 15 June 2006 petition included the required petition fee and a "Declaration Of Eva Karin KILMARE" explaining and confirming the change in the inventor's name. These materials satisfy the requirements for a grantable petition under 37 CFR 1.182 to change this inventor's name of record.

### CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of record for inventor Eva SJOGREN-JANSSON to Eva Karin KILMARE is **GRANTED**.

Based on the above correction, the declaration filed 14 February 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 14 February 2006.



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



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ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

<b>Applicant</b>	: Peter Eriksson	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7638328	: RECALCULATION of PATENT
<b>Issue Date</b>	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/555,694	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 11/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **562** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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POST OFFICE BOX 1404  
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

<b>Applicant</b>	: Simo Kangas	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7648213	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/555,698	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 11/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **969** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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POST OFFICE BOX 1404  
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

<b>Applicant</b>	: Simo Kangas	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7661776	: RECALCULATION of PATENT
<b>Issue Date</b>	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/555,699	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 11/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1087** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



06 MAY 2008

Philip S. Johnson,  
Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, New Jersey 08933-7003

In re Application of	:	
DEKOCK et al.	:	
Application No.: 10/555,712	:	DECISION ON PETITION
PCT No.: PCT/EP04/50753	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 10 May 2004	:	
Priority Date: 08 May 2003	:	
Attorney Docket No.: TIP-0072USPCT	:	
For: HIV PRODRUGS CLEAVABLE BY CD26	:	

The petition to revive under 37 CFR 1.137(b) filed 17 April 2008 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has submitted the required reply (sequence listing and additional claim fees of \$50) and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

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

**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

Paper No.: \_\_\_\_\_

DATE : May 2, 2010

TO SPE OF : ART UNIT 2451 - SPE John A. Follansbee.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/555,722 Patent No.: 7,698,466 B2

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

**FOR IFW FILES:**

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

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

**FOR PAPER FILES:**

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

**Certificates of Correction Branch (CofC)  
Randolph Square Building  
2800 South Randolph Street  
Arlington, VA 22206**

**Antonio Johnson**

Determine if the "PCT Pub reference WO2004/066589" should be substituted with "PCT Pub. WO2004/100574 November 18, 2004".  
See COCIN dated 04-21-2010

\_\_\_\_\_  
**Certificates of Correction Branch  
(571)272-0483**

**Thank You For Your Assistance**

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

Note your decision on the appropriate box.

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> <b>Approved</b> | All changes apply.                               |
| <input type="checkbox"/> <b>Approved in Part</b>    | Specify below which changes <b>do not</b> apply. |
| <input type="checkbox"/> <b>Denied</b>              | State the reasons for denial below.              |

**Comments:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

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**SPE /John Follansbee/**  
**Art Unit 2451**



15 AUG 2008

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Elliott N Kramsky  
Suite 400  
5850 Canoga Avenue  
Woodland Hills CA 91367

In re Application of	:	
SPAHLINGER	:	
Application No.: 10/555,737	:	
PCT No.: PCT/EP04/04844	:	DECISION ON PETITION
Int. Filing Date: 06 May 2004	:	
Priority Date: 08 May 2003	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: L-410	:	
For: OPERATING METHOD FOR A CORIOLIS	:	
GYRO, AND EVALUATION/CONTROL	:	
ELECTRONICS WHICH ARE SUITABLE FOR	:	
THIS PURPOSE	:	

The petition to revive under 37 CFR 1.137(b) filed 04 August 2008 in the above-captioned application is hereby **GRANTED** as follows:

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

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

The application has an international filing date of 06 May 2004 under 35 U.S.C. 363 and will be given a date of **07 November 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



SEP 09 2008

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

In re Application of:	:	
Ralston et al.	:	DECISION ON PETITION FOR A
Serial No.: 10/555,738	:	COMPLETE OFFICE ACTION AND TO
Filed: November 7, 2005	:	RESET REPLY PERIOD
Attorney Docket No.: BJS-620-402	:	

This is in response to applicants' petition under 37 CFR. § 1.181(a), filed on August 22, 2008, to issue a complete Office action and to reset the period for responding from the mail date of the new Office action.

BACKGROUND

Specifically, in part, applicants state the following:

The Office action of July 29, 2008 is incomplete in at least the statement of the status of the pending claims. Claims 65-121 are indicated, for example, as pending on page 1 of the Office Action of July 29, 2008. Claims 1-119 and 121 however are stated as having been canceled in the amendment filed July 2, 2008 and claims 122-171 were added as new claims added in the amendment of July 2, 2008. Page 1 of the Office Action dated July 29, 2008 therefore is incomplete in the statement of the pending claims.

The Office Action dated July 29, 2008 states on page 1 that the Office Action is "Responsive to the communication(s) filed 27 July 2008". While the undersigned filed the above-identified Amendment of July 2, 2008, there is no evidence in the PTO PAIR IFW or Transaction History or the undersigned's file, that a communication was filed July 27, 2008. Page 1 of the Office Action dated July 29, 2008 therefore is incomplete in the statement of the last communication to which the Office Action is directed.

The Office Action dated July 29, 2008 is incomplete or at least unclear in stating that "Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action." as there are no grounds of rejected presented in the Office Action dated July 29, 2008. Clarification is requested therefore as to the basis of the Office Action dated July 29, 2008 being a final rejection.

The Office Action dated July 29, 2008 is incomplete in withdrawing claims 122- 171 from consideration as allegedly being drawn to "an invention that is independent or distinct from the invention originally claimed". See page 2 of the Office Action dated July 29, 2008.

In response thereto, applicants filed this petition on August 22, 2008, requesting a complete Office action and to reset the period for responding from the mail date of the new Office action.

## DISCUSSION

Applicants' arguments are persuasive that the Office action was incomplete. It is further noted that the examiner has indicated in an Interview Summary of August 22, 2008 that claims 122-171 should not have been withdrawn and that the next Office action will be an election of species for (a) a disease and (b) a compound.

Applicants' petition is **GRANTED**.

This application will be forwarded to the examiner for an action not inconsistent with this decision.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.



Marianne C. Seidel  
Quality Assurance Specialist  
Technology Center 1600



20 FEB 2007

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B. J. Sadoff  
NIXON & VANDERHYE P.C.  
901 North Glebe Road, 11<sup>th</sup> Floor  
Arlington, VA 22203-1808

In re Application of:	:	
AL MOURABIT, Ali et al.	:	DECISION
Application No.: 10/555,740	:	
PCT NO.: PCT/FR2004/001059	:	
Int. Filing Date: 30 April 2004	:	UNDER
Priority Date: 07 May 2003	:	
Atty Docket No.: 1721-104	:	
For: SYNTHESIS OF SUBSTITUTED	:	37 CFR 1.47(a)
HETEROCYCLIC COMPOUNDS	:	
	:	

This decision is in response to applicants' "RULE 47 PETITION," filed 29 November 2006 to accept the application without the signature of one of the co-inventors, Robert ABOU-JNEID. The petition has been considered under 37 CFR §1.47(a). For reasons set forth below, the petition is **Dismissed**.

BACKGROUND

On 30 April 2004, applicants filed international application PCT/FR2004/001059, which claims a priority date of 07 May 2003 and designates the United States. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 07 November 2005. The National Stage Filing was made on 07 November 2005, including the required fees.

On 16 October 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to Applicants to inform them that an oath or declaration must be filed.

On 29 November 2006, Applicants filed the instant petition to accept the above-identified national application without the signature of co-inventor Robert ABOU-JNEID, which was accompanied by, *inter alia*, a declaration signed by all of the inventors except for Robert ABOU-JNEID. The petition fee of \$200 under 37 CFR §1.47(a) has not been received. The evidence consists of: (1) "STATEMENT IN SUPPORT OF RULE 47(a) PETITION" ("the Statement"); (2) a photocopy of the envelope for the letter referenced in the Statement; and (3) a photocopy of the return receipt ("AVIS DE RECEPTION") of the letter referenced in the Statement. The petition fails to identify the last known address for the non-signing inventor, Robert ABOU-JNEID, but the address is shown in the accompanying, "STATEMENT IN SUPPORT OF RULE 47(a) PETITION."

### DISCUSSION

A grantable 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. Applicants have satisfied items (3) and (4) above.

In MPEP 409.03(c), it is stated with respect to situations where the inventor can not be reached that the petition must be accompanied by a "statement of facts ... that fully describes the exact facts which are relied on to establish that a diligent effort was made."

The "STATEMENT IN SUPPORT OF RULE 47(a) PETITION" was executed by Ali AL MOURABIT and states that Robert ABOU-JNEID had terminated his employment with CNRS during February 2002 (point 4 of the Statement). It is noted that the Statement lacks a complete date with the signature (i.e., "Tuesday day of November, 2006). A copy of the application with an attached declaration was sent by registered mail to the last known address of Robert ABOU-JNEID (point 5 of the Statement). Allegedly, the copy of the application with an attached declaration, "were returned to sender and marked that Robert ABOU-JNEID did not live at the indicated address" (point 6 of the Statement).

The petition evidence provided under 37 CFR §1.47(a) is insufficient to demonstrate the "proof of the pertinent facts" required under 37 CFR §1.47(a). Although the registered letter was returned to the sender as shown by the stamp in the middle of the return receipt ("AVIS DE RECEPTION"), there is no indication from the submitted

evidence to support point 6 of the Statement that the letter was “marked that Robert ABOU-JNEID did not live at the indicated address.” The return receipt (“AVIS DE RECEPTION”) is stamped, “NON RECLAME RETOUR A L’ENVOYEUR.” No translation had been offered. The submitted evidence only establishes that one attempt was made to send a copy of the application with an attached declaration to the last known address of Robert ABOU-JNEID via registered mail with return receipt and that that registered letter was returned with the return receipt stamped “NON RECLAME RETOUR A L’ENVOYEUR.” Since only a single attempt was made via registered mail to reach Robert ABOU-JNEID, it is possible that he was merely on vacation or out of town. According to MPEP 409.03(d), the Statement must set forth, “steps taken to locate the whereabouts of the nonsigning inventor.” The single attempt to contact Robert ABOU-JNEID would not constitute, “steps taken to locate the whereabouts of the nonsigning inventor” (underlining added for emphasis). There is nothing in the record which demonstrates a diligent effort was made to locate the inventor if, in fact, the inventor has moved, e.g. through an internet search or through a search of a telephone directory. Further, it is not clear from the submitted evidence what effort was made by the French Post Office to deliver the registered letter to Robert ABOU-JNEID (e.g., how many attempts to deliver over what period of time).

In accordance with MPEP 409.03(d), copies of documentary evidence, such as internet searches, telegrams, etc. which, in concert with the statement, would demonstrate factual proof that a diligent effort to search for the nonsigning inventor had been made must be submitted to support the petition. Please note that all evidence that is submitted that is not in the English language must be submitted with a translation so that it can be considered.

Regarding item (1) above, applicants have not paid the petition fee of \$200 under 37 CFR. 1.17(g). No specific authorization has been found in the papers submitted to charge the petition fee, nor has the fee been paid by any other manner of payment.

Petitioner has only met points (3) and (4) of the four requirements for a grantable petition under 37 CFR §1.47(a), points (1) and (2) being lacking.

### 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. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Failure to timely submit the proper reply will result in ABANDONMENT. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner of 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.

A handwritten signature in black ink, appearing to read "Leonard E. Smith". The signature is written in a cursive style with a large initial "L" and "E".

Leonard E. Smith  
Supervisory PCT Legal Examiner  
PCT Legal Administration

Bernarr Gregory  
Detailee  
PCT Legal Administration

Telephone: (571) 272-6094  
Facsimile: (571) 273-0459

2 3 NOV 2007



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

In re Application of	:	
AL MOURABIT, Ali et al.	:	
Application No.: 10/555,740	:	DECISION
PCT No.: PCT/FR2004/001059	:	
Int. Filing Date: 30 April 2004	:	ON PETITION UNDER
Priority Date: 07 May 2003	:	
Docket No.: 5006-8	:	37 CFR 1.47(a)
For: SYNTHESIS OF SUBSTITUTED	:	
HETEROCYCLIC COMPOUNDS	:	

This is a decision on applicant's renewed Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 19 September 2007.

#### BACKGROUND

On 20 February 2007, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicant's petition without prejudice.

On 19 September 2007, applicants submitted a renewed petition under 37 CFR 1.47(a).

#### DISCUSSION

The fee for a five month extension of time will be charged to deposit account no. 14-1140, as authorized.

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (3) and (4) were previously satisfied. The petition lists the last known addresses of non-signing inventor Robert Abou-Jneid as 110, avenue General Bizot; 75012 Paris, France.

Item (1) has now been satisfied. The petition fee has been paid.

Item (2) has now been satisfied. Applicants have furnished evidence of numerous attempts to locate the non-signing inventor.

#### CONCLUSION

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

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **29 November 2006**.

/Erin P. Thomson/

Erin P. Thomson  
Attorney Advisor  
PCT Legal Administration

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

23 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](http://www.uspto.gov)

Robert Abou-Jneid  
110, avenue General Bizot  
75012 Paris  
France

In re Application of  
AL MOURABIT, Ali et al.  
Application No.: 10/555,740  
PCT No.: PCT/FR2004/001059  
Int. Filing Date: 30 April 2004  
Priority Date: 07 May 2003  
Docket No.: 5006-8  
For: SYNTHESIS OF SUBSTITUTED HETEROCYCLIC COMPOUNDS

Dear Mr. Abou-Jneid:

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

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

/Erin P. Thomson/

Erin P. Thomson  
Attorney Advisor  
PCT Legal Administration

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

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



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ARLINGTON VA 22203

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SEP 10 2009

OFFICE OF PETITIONS

In re Application of :  
Al Mourabit et al. :  
Application Number: 10/555740 : ON PETITION  
Filing Date: 11/29/2006 :  
Attorney Docket Number: BJS- :  
5006-8 :

This is a decision in reference to the "PETITION UNDER RULE 181(a) AND PURSUANT TO MPEP § 711.03(c)(I.) (B.)" filed on April 21, 2009, which is treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

This application became abandoned on December 26, 2008, for failure to timely submit a response to the Office action requiring restriction and/or election mailed on September 25, 2008, which set a one (1)-month shortened statutory period for reply. On December 23, 2008, a two-(2) month extension of time was filed. No reply to the Office action mailed on September 25, 2008, however, was filed with the extension of time request. Notice of Abandonment was mailed on April 17, 2009.

Petitioners assert that a response, in the form of an election of the subject matter of the Examiner's Group I, was timely filed with the extension of time of December 23, 2008. In support, petitioners point to the N417 Electronic Acknowledgement Receipt showing the filing of the \$490 fee, an Extension of Time and A Response to Election/Restriction Filed on December 23, 2008.

Petitioner's argument has been considered, but is not persuasive.

Pursuant to MPEP 711.04(b), the electronic file is the official record of the application. A review of the Image File Wrapper (IFW) file reveals that on December 23, 2008, an N417 Electronic Acknowledgement Receipt was generated, showing receipt of one (1) page of an extension of time; one (1) page of a Response to Election/Restriction Filed, and two (2) pages of a Fee Worksheet

on that date. One (1) page of the response to the restriction requirement, one (1) page of the extension of time request, and two (2) pages of the Fee Worksheet filed on December 23, 2008 are located in the IFW file. The one (1) page of the Response to Election/Restriction Filed located in the official file, however, is a cover sheet entitled "Response/Amendment/Letter" which does not actually contain applicants' response. No copy of the paper entitled "Response" filed on April 21, 2009, containing the election of subject matter was filed on December 23, 2008.

The EFS-Web Legal Framework sets forth the Office policy and procedure for filing application papers via the EFS-Web system. The EFS-Web Legal Framework states, in pertinent part, that the Acknowledgement Receipt establishes the date of receipt by the USPTO of the electronic documents itemized in the receipt, and is thus an equivalent of a return postcard used in the paper process. Under EFS-Web, the Acknowledgement Receipt will contain a full listing of the documents submitted to the USPTO as described by applicant or a reexamination party (patent owner or reexamination requester) during the submission process, including the count of pages and/or byte sizes for each document. Thus, the Acknowledgement Receipt is the electronic equivalent of the post card receipt described in MPEP 503. See Item VIII. Acknowledgement Receipt Policy, <http://www.uspto.gov/ebc/portal/efs/legalframework.pdf>.

As stated above, it is noted that the Acknowledgement Receipt generated on December 23, 2008, states that, *inter alia*, one (1) page of the Response to Election/Restriction Filed was received. Further, the above-referenced Acknowledgement Receipt states that four (4) pages total were filed, and four (4) pages received on December 23, 2008 are located in the official file. Clearly, the one (1) page of specified on the Acknowledgement Receipt as the Response to Election/Restriction Filed is the cover sheet, and not the election. As such, the showing of record is that applicants failed to file the paper containing the election on December 23, 2008.

In this regard, applicant, not the Office, is ultimately responsible for the proper and timely prosecution of his or her application. While the EFS-Web system was designed to assist applicants in avoiding mistakes and omissions in filing documents in the USPTO, the responsibility for filing complete responses and other documents remains with the applicant. In other words, it is the responsibility of the applicant, not the USPTO, to ensure that all of the required documents are properly attached and uploaded when filing a response via EFS-Web.

In summary, the showing of record is that petitioners intended to file a complete reply to the Office action mailed on September 25, 2008, but inadvertently failed so to do as a result of a mistake on the part of petitioner, not the USPTO. Accordingly, the application is properly held abandoned.

Petitioners may wish to consider filing a petition to revive the application.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**<sup>1</sup>

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

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

By FAX: (571) 273-8300  
Attn: Office of Petitions

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

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



Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions

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<sup>1</sup> 37 CFR 1.181(f).



**NIXON & VANDERHYE, PC  
901 NORTH GLEBE ROAD,  
11<sup>TH</sup> FLOOR  
ARLINGTON VA 22203**

**COPY MAILED**

**DEC 17 2009**

**OFFICE OF PETITIONS**

In re Application of :  
Ali AL MOURABIT, et al :  
Application No. 10/555,740 : **DECISION ON PETITION**  
Filed: November 29, 2006 :  
Attorney Docket No. BJS-5006-8 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 15, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed September 25, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A two (2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of \$1620; and (3) the required statement of unintentional delay.

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

This application is being referred to Technology Center AU 1625 for appropriate action by the Examiner in the normal course of business on the reply received October 15, 2009.

/Diane C. Goodwyn/  
Diane C. Goodwyn  
Petitions Examiner  
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF DATA MANAGEMENT

THE FIRM OF HUESCHEN AND SAGE  
SEVENTH FLOOR, KALAMAZOO BUILDING  
107 WEST MICHIGAN AVENUE  
KALAMAZOO MI 49007

In re Application of : DEC - 8 2008  
GRAINDORGE, EMMANUEL et al. :  
Application No. 10/555,743 : **DECISION ON PETITION**  
Filed: November 4, 2005 :  
Attorney Docket No. SERVIER 474 PCT :

This is a decision on the Petition For Withdrawal Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on April 21, 2008.

The petition is **GRANTED**.

Petitioner has demonstrated that the Part B – Fee(s) Transmittal, Transmittal Of Payment Of Issue Fee, was timely, and is in compliance with 37 CFR 1.181(a) in that (1) the United States Patent and Trademark Office was promptly informed of the previous timely mailing, (2) a copy of a signed and dated Form PTOL-85B has been submitted, and (3) included a check for the issue fee, it also included an authorization to charge the required fee.

Accordingly, the issue fee was accepted as timely received on March 12, 2008.

As authorized, the issue fee in the amount of \$1,440 and \$300 for publication fee were charged to Deposit Account No. 08-3220. Since, no fee is required for this petition.

The application will be processed into a patent by the Office of Data Management.

Telephone inquires concerning this decision be directed to the undersigned in the Office of Patent Publication at 703-305-9250 x 175.

Kay D. Pinkney  
Application Assistance Unit  
Office of Data Management

08 MAR 2007



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
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Leonard C. Mitchard  
Nixon & Vanderhye, P.C.  
901 North Glebe Road, 11<sup>th</sup> Floor  
Arlington, VA 22203-1808

In re Application of	:	
HARBIGE, et al.	:	
U.S. Application No.: 10/555,757	:	DECISION ON PETITION
PCT No.: PCT/GB04/02089	:	
Int. Filing Date: 14 May 2004	:	UNDER 37 CFR 1.47(a)
Priority Date: 14 May 2003	:	
Attorney Docket No.: 604-756	:	
For: USE OF TRIGLYCERIDE OILS CONTAINING	:	
GAMMA-LINOLENIC ACID RESIDUES AND	:	
LINOLEIC ACID RESIDUES FOR THE TREAT-	:	
MENT OF NEURODEGENERATIVE DISEASE	:	

This decision is in response to the applicant's "RULE 47 PETITION" filed 22 February 2007 in the United States Patent and Trademark Office (UPSTO) to accept the application without the signature of joint inventor Mohammed Sharief.

**BACKGROUND**

On 14 May 2004, applicant filed international application PCT/GB04/02089 which claimed priority to an earlier application filed 14 May 2003. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 25 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 November 2005.

On 07 November 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, an Information Disclosure Statement and a first preliminary amendment.

On 22 November 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 February 2007, applicant filed the present petition under 37 CFR 1.47 accompanied by a petition for a one-month extension of time and payment of the appropriate extension of time fee. As such, the response is considered timely filed. It is noted that applicant

provided a petition fee payment of \$130.00. The petition fee for a petition under 37 CFR 1.47 is \$200.00 as detailed in 37 CFR 1.17(g). The additional \$70.00 will be charged to deposit account number 14-1140 as authorized.

### DISCUSSION

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

Regarding item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature."

Applicant has provided a firsthand statement from Erika Szedon detailing a meeting with the non-signing inventor, Dr. Sharief. However, the statement does not provide sufficient detail to satisfy item (2) above. It is unclear from the statement and documentation whether a copy of the application papers was presented to Dr. Sharief. It appears that he was merely presented with declaration and assignment documents for execution. As shown above, a complete set of application papers must be presented to the inventor prior to his refusal to assure that the inventor understands to which invention the declaration is directed.

In addition, it appears from the statement that Dr. Sharief has retained counsel to advise him on the matter. Ms. Szedon states that, "[h]is response, as communicated by his solicitor, was that he was not going to sign the documents at this time and that he was seeking independent legal advice before signing the documents." If this information was communicated orally to Ms. Szedon details of the conversation should be provided as to the date and time and the name of the attorney. See MPEP 409.03(d):

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts.

In light of the above it is not possible to grant applicant's petition under 37 CFR 1.47(a) at this time.

**CONCLUSION**

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

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." 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

03/08/2007 SBASHEIR 00000001 141140 10555757  
Sale Ref: 00000001 DA: 141140 10555757  
01 FC:1463 70.00 DA 130.00 OP

Adjustment date: 03/08/2007 SBASHEIR  
02/23/2007 GFREY1 00000112 10555757  
01 FC:1464 -130.00 OP



22 OCT 2007

Nixon & Vanderhye, P.C.  
901 North Glebe Road, 11<sup>th</sup> Floor  
Arlington, VA 22203-1808

In re Application of	:	
HARBIGE, et al.	:	
U.S. Application No.: 10/555,757	:	DECISION ON RENEWED
PCT No.: PCT/GB04/02089	:	
Int. Filing Date: 14 May 2004	:	PETITION UNDER
Priority Date: 14 May 2003	:	
Attorney Docket No.: 604-756	:	37 CFR 1.47(a)
For: USE OF TRIGLYCERIDE OILS CONTAINING	:	
GAMMA-LINOLENIC ACID RESIDUES AND	:	
LINOLEIC ACID RESIDUES FOR THE TREAT-	:	
MENT OF NEURODEGENERATIVE DISEASE	:	

This decision is in response to the applicant's renewed petition under 37 CFR 1.47(a) filed 09 October 2007 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor Mohammed Sharief.

**BACKGROUND**

On 08 March 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 09 October 2007, applicant filed the present renewed petition under 37 CFR 1.47 accompanied by a petition for a five-month extension of time and payment of the appropriate extension of time fee. 08 October 2007 being a Federal holiday, the response is considered timely filed.

**DISCUSSION**

As detailed in the decision mailed 08 March 2007, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint 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) above.

As to item (2), with the filing of the present renewed petition and supporting documentation, applicant has provided a sufficient showing that a diligent effort has been made to present a complete set of application papers to the non-signing inventor at his last known address

and through his counsel. Despite these efforts, Dr. Sharief has yet to return an executed oath or declaration. Therefore, it is proper to grant applicant's renewed petition at this time.

It is noted that the file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

### CONCLUSION

For the reasons above, applicant's renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 14 May 2004 under 35 U.S.C. 363, and will be given a date of **22 February 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known addresses of record. A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

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



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

cc:

Bryan Diner  
Finnegan, Henderson, Farabow, Garrett & Dunner LLP  
901 New York Avenue, N.W  
Washington, D.C.  
20001-4413



Paul J. White  
Nrel  
1617 Cole Blvd.  
Golden CO 80401

**MAILED**

**JUL 16 2010**

**OFFICE OF PETITIONS**

In re Application of

Wang, et al.

Application No. 10/555,766

Filed: November 3, 2005

Attorney Docket No. **NREL 02-06**

:

:

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed June 9, 2009. The final Office action set a shortened statutory period for reply of three months from its mailing date. A response was not received within the allowable period and the application became abandoned on September 10, 2009.

The Request for Continued Examination and amendment filed April 26, 2010, are noted.

The application file is being forwarded to Technology Center 2800, GAU 2811 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions

11 APR 2006



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Alexandria, VA 22313-1450  
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ROTHWELL, FIGG, ERNST & MANBECK  
1425 K Street, Suite 800  
Washington, DC 20005

In re Application of :  
INGRISCH *et al* :  
Application No.: 10/555,775 :  
PCT No.: PCT/EP2004/004780 :  
Int. Filing Date: 05 May 2004 : **DECISION**  
Priority Date: 07 May 2003 :  
Attorney Docket No.: 2923-730 :  
For: USE OF DIAZEPINE DERIVATIVES AS :  
LATENT HARDENING COMPONENTS :

This is a decision on the declaration filed 01 March 2006 which has been treated as a petition under 37 CFR 1.42 and 37 CFR 1.43. No fee is required.

### **BACKGROUND**

On 01 March 2006, applicants filed a declaration signed by four of the five listed co-inventors and the legal representative of the heir of a deceased co-inventor along with a \$130.00 surcharge fee.

### **DISCUSSION**

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

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

37 CFR 1.43 *When the Inventor is Insane or Legally Incapacitated*, 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.

Petitioners state that Herbert Winkelman, an inventor in the above-captioned application, died in an accident. Applicants claim that the sole heir is Felix Gantner, who is only four years old. As such, the heir is legally incapacitated.

In response to this situation, applicants have furnished a declaration signed by Andrea Gantner as the legal representative of her minor son, Felix Gantner pursuant to

37 CFR 1.43. This is an appropriate response.

The citizenship, residence and mailing address of Andrea Gantner and Felix Gantner are listed on the supplemental declaration pursuant to 37 CFR 1.497(b)(2). In addition, the declaration records the citizenship of each inventor (including the deceased inventor) pursuant to 37 CFR 1.497(a)(3).

### **CONCLUSION**

The papers filed under 37 CFR 1.42 and 1.43 are **ACCEPTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 05 May 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 01 March 2006.

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



James Thomson  
Attorney Advisor  
Office of PCT Legal Administration

Tel.: (571) 272-3302



# UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office  
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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.  
2200 CLARENDON BLVD.  
SUITE 1400  
ARLINGTON, VA 22201

Mail Date: 04/20/2010

**Applicant** : Michael Kirschbaum : DECISION ON REQUEST FOR  
**Patent Number** : 7629493 : RECALCULATION of PATENT  
**Issue Date** : 12/08/2009 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/555,789 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 11/04/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

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

The patent term adjustment has been determined to be **360** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



# UNITED STATES PATENT AND TRADEMARK OFFICE

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YOUNG & THOMPSON  
209 Madison Street  
Suite 500  
Alexandria, VA 22314

Mail Date: 04/30/2010

<b>Applicant</b>	: Mamoun Naciri	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7610934	: RECALCULATION of PATENT
<b>Issue Date</b>	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/555,791	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 11/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **583** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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Siemens Corporation  
Intellectual Property Department  
170 Wood Avenue South  
Iselin, NJ 08830

Mail Date: 05/07/2010

**Applicant** : Peter Wiedenbergr : DECISION ON REQUEST FOR  
**Patent Number** : 7656896 : RECALCULATION of PATENT  
**Issue Date** : 02/02/2010 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/555,799 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 11/03/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

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

The patent term adjustment has been determined to be **539** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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PETER K. TRZYNA  
PO BOX 7131  
CHICAGO, IL 60680-7131

**COPY MAILED**

**AUG 01 2007**

**OFFICE OF PETITIONS**

In re Application of  
Crispania O. Cabellero, et al.  
Application No. 10/555,801  
Filed: January 9, 2007  
Attorney Docket No. MCEA-P1-04

DECISION ON PETITION  
TO MAKE SPECIAL UNDER  
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 26, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration statement signed by applicant Thomas F. Conroy. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3693 for action on the merits commensurate with this decision.

*April M. Wise*  
April M. Wise  
Petitions Examiner  
Office of Petitions



12 DEC 2006

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BLACK LOWE & GRAHAM, PLLC  
701 FIFTH AVENUE  
SUITE 4800  
SEATTLE, WA 98104

In re Application of MENDE et al	:	
U.S. Application No.: 10/555,808	:	
PCT Application No.: PCT/EP2004/004798	:	DECISION
Int. Filing Date: 06 May 2004	:	
Priority Date Claimed: 08 May 2003	:	
Attorney Docket No.: MUHL-1-1001	:	
For: DEVICE AND METHOD FOR LINKING	:	
MICROCHIP MODULES WITH	:	
ANTENNAS	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 22 November 2006.

**BACKGROUND**

On 06 May 2004, applicant filed international application PCT/EP2004/004798, which claimed priority of an earlier Germany application filed 08 May 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 18 November 2004. The thirty-month period for paying the basic national fee in the United States expired on 08 November 2005.

On 03 November 2005, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by the basic national fee required by 35 U.S.C. 371(c)(1).

On 13 November 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely pay the basic national fee.

On 22 November 2006, applicant filed the present petition under 37 CFR 1.137(b).

**DISCUSSION**

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

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

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

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

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

**CONCLUSION**

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

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



Bryan Lin  
PCT Legal Examiner  
PCT Legal Office

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



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

Mail Date: 04/21/2010

**Applicant** : Pål Jahre Nilsen : DECISION ON REQUEST FOR  
**Patent Number** : 7625416 : RECALCULATION of PATENT  
**Issue Date** : 12/01/2009 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/555,814 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 11/13/2006 : ISSUE CERTIFICATE OF CORRECTION  
:

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

The patent term adjustment has been determined to be **688** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,815	11/07/2005	Nobuaki Watanabe	034134.005	2661

26111 7590 01/27/2009  
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.  
1100 NEW YORK AVENUE, N.W.  
WASHINGTON, DC 20005

EXAMINER

AURORA, REENA

ART UNIT	PAPER NUMBER
2862	

MAIL DATE	DELIVERY MODE
01/27/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,815	11/07/2005	Nobuaki Watanabe	034134.005	2661

26111 7590 01/08/2009  
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.  
1100 NEW YORK AVENUE, N.W.  
WASHINGTON, DC 20005

EXAMINER

AURORA, REENA

ART UNIT	PAPER NUMBER
2862	

MAIL DATE	DELIVERY MODE
01/08/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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

In re Application of:	:	
Watanabe <i>et al.</i>	:	DECISION ON PETITION
Serial No.: 10/555,815	:	TO RESET A PERIOD FOR REPLY
Filed: November 07, 2005	:	DUE TO LATE RECEIPT OF OFFICE ACTION
Attorney Docket No.: 034134.005	:	

This is a decision on the petition filed on November 6, 2008, to restart the period for response due to late receipt of the Office action mailed on July 16, 2008. No petition fee is required.

The petition is **GRANTED**.

Petitioner asserts that the Office action mailed July 16, 2008 was not received at the correspondence address until November 5, 2008, when a copy of the Office action was downloaded from USPTO PAIR. Petitioner further asserts that the Office action mailed July 16, 2008, was sent to an incorrect correspondence address.

A review of the application file reveals that the Office action mailed July 16, 2008, was, in fact, mailed to an incorrect address. As such, it can not be presumed that the mailed Office action was received at the correspondence address of record.

Accordingly, the petition is granted, and the period for response is hereby reset to run three (3) months from the mailing date of this letter.

Inquiries regarding this decision should be directed to Patrick J. Assouad at (571) 272-2210.

John Cabeca, Director  
Technology Center 2800  
Semiconductors, Electrical and Optical  
Systems and Component

Filed 2/27/08

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.

**POWER OF ATTORNEY TO PROSECUTE APPLICATIONS BEFORE THE USPTO**

I hereby revoke all previous powers of attorney given in the application identified in the attached statement under 37 CFR 3.73(b).

I hereby appoint:

Practitioners associated with the Customer Number: 26111

OR  
 Practitioner(s) named below (If more than ten patent practitioners are to be named, then a customer number must be used):

Name	Registration Number	Name	Registration Number

as attorney(s) or agent(s) to represent the undersigned before the United States Patent and Trademark Office (USPTO) in connection with any and all patent applications assigned only to the undersigned according to the USPTO assignment records or assignment documents attached to this form in accordance with 37 CFR 3.73(b).

Please change the correspondence address for the application identified in the attached statement under 37 CFR 3.73(b) to:

The address associated with Customer Number: 26111

OR

<input type="checkbox"/> Firm or Individual Name			
Address			
City	State	Zip	
Country			
Telephone	Email		

Assignee Name and Address:

Please change customer #.  
See attached.

A copy of this form, together with a statement filed in each application in which this form is used, must identify the application in which this form is used.

The individual whose signature is required to be completed by one of the assignee,

Signature	✓ Shigeru IZAWA
Name	✓ Shigeru IZAWA
Title	✓ President

This collection of information is required by 37 CFR by the USPTO to process an application. Confidential to complete, including gathering, preparing, and submitting comments on the amount of time you require to complete this form to the U.S. Patent and Trademark Office, U.S. Department of Commerce. SEND TO: Commr...

Signature: Mary 17, 2008  
 -3-3965-1111

the public which is to file (and estimated to take 3 minutes per the individual case. Any Chief Information Officer, FEEES OR COMPLETED



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FAY SHARPE/LUCENT  
1228 Euclid Avenue, 5th Floor  
The Halle Building  
Cleveland, OH 44115-1843

Mail Date: 07/26/2010

**Applicant** : Denis Fauconnier : DECISION ON REQUEST FOR  
**Patent Number** : 7647043 : RECALCULATION of PATENT  
**Issue Date** : 01/12/2010 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/555,827 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 11/07/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

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

The patent term adjustment has been determined to be **1047** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

30 AUG 2006



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Corporate Patent Counsel  
Philips Electronics North America Corporation  
PO Box 3001  
Briarcliff Manor NY 10510

In re Application of	:	
Epstein et al.	:	
Application No.: 10/555,836	:	DECISION
PCT No.: PCT/IB03/05799	:	
Int. Filing Date: 05 December 2003	:	ON
Earliest Priority Date: 19 December 2002	:	
Attorney Docket No.: US030096	:	PETITION
For: Reordered Search Of Media Fingerprints:	:	

The petition to revive under 37 CFR 1.137(b) filed 07 November 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

The \$130.00 surcharge under 37 CFR 1.492(h) is being charged to counsel's Deposit Account No. 14-1270, as authorized by the Transmittal Letter filed on 07 November 2005.

This application is being forwarded to the United States Designated/Elected Office for further processing. The date of the application under 35 U.S.C. 371(c)(1), (2) and (4) is 07 November 2005.

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

08/31/2006 SBASHEIR 00000005 141270 10555836  
01 FC:1617 130.00 DA



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**OFFICE OF PETITIONS**

In re Application of :  
Holmes, et al. :  
Application No. 10/555,868 : **ON PETITION**  
Application Filing Date: November 2, 2005 :  
Attorney Docket No. 04279/100M212-US1 :

This is a decision on the petition under 37 CFR 1.59(b) filed January 26, 2009.

The petition is granted.

Petitioner requests that the terminal disclaimer filed June 9, 2008, be expunged from the above-cited application as it cited an incorrect prior patent number relative to obviating a double patenting rejection. A review of the application file history reveals that the terminal disclaimer is not a part of the original disclosure<sup>1</sup> (which would prohibit expungement pursuant to 37 CFR 1.59(a)) and the expungement of document would not result in the application becoming abandoned. The expungement of the terminal disclaimer is, therefore, appropriate.

Accordingly, the terminal disclaimer filed June 9, 2008, will be expunged from the application.

Petitioner is advised that the documents cannot be returned as the original papers were scanned into an electronic file with the hard copies being destroyed thereafter.

The terminal disclaimer filed January 26, 2009, is noted and made of record.

Questions concerning this decision may be addressed to the undersigned at (571)272-3222.

*Kenya A. McLaughlin*  
Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions

<sup>1</sup> It is noted 37 CFR 1.59 explains that the original disclosure includes the specification, claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under 37 CFR 1.63 and 1.175.



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**SHELL OIL COMPANY  
 P O BOX 2463  
 HOUSTON TX 77252-2463**

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In re Application of :  
 Van Den Berg et al. :  
 Application No. 10/555,881 : **DECISION ON PETITION**  
 Filed: August 1, 2006 :  
 Attorney Docket No. TS9299US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 8, 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 20, 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 21, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of \$1,620.00, and (3) an adequate statement of unintentional delay.

Further, 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received.

*Joan Olszewski*  
 Joan Olszewski  
 Petitions Examiner  
 Office of Petitions



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

Mail Date: 04/21/2010

<b>Applicant</b>	: Satoshi Koyanagi	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7667009	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/555,883	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 11/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **812** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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GREGORY SMITH & ASSOCIATES  
3900 NEWPARK MALL ROAD, 3RD FLOOR  
NEWARK, CA 94560

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**OFFICE OF PETITIONS**

In re Application of :  
Yeung et al. :  
Application No. 10/555895 :  
Filing or 371(c) Date: 11/04/2005 : DECISION  
Attorney Docket Number: 325-003US : ON PETITION

This is a decision on the Petition for Correction of Filing Date, filed September 8, 2006. The petition is properly treated under 37 CFR 1.10(c).

This Petition is hereby **granted**.

Petitioner alleges that the application was deposited in Express Mail service on November 4, 2005. In support of this assertion, the petition is accompanied by a copy of Express Mail label No. EV330475326US. A review of the Express Mail label, No. EV330475326US, reveals that the "Date In" indicated on the Express Mail label is November 4, 2005. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No fee has been charged and none is due.

The application is being referred to the Office of Initial Patent Examination for correction of the filing date to November 4, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

  
Derek L. Woods  
Attorney  
Office of Petitions



31 MAR 2008

CLARK & ELBING LLP  
101 FEDERAL STREET  
BOSTON MA 02110

In re Application of	:	
Superti-Fuga et al.	:	
Application No.: 10/555,896	:	DECISION
PCT No.: PCT/EP04/004883	:	
Int. Filing Date: 07 May 2004	:	ON
Priority Date: 07 May 2003	:	
Attorney Docket No.: 50125/107001	:	PETITION
For: Process For The Identification	:	
Of New Medical Targets	:	

This is in response to the petition under 37 CFR 1.182 filed on 21 March 2008.

**BACKGROUND**

This international application was filed on 07 May 2004, claimed an earlier priority date of 07 May 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 18 November 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 07 November 2005. Applicants filed *inter alia* the basic national fee on 07 November 2005.

**DISCUSSION**

Applicants petition under 37 CFR 1.182 "to have the foreign priority information corrected in the above-referenced application." Applicants note that "the correct priority document should have been EP 03010290.9 filed on May 7, 2003," and that on "December 9, 2004, a request for correction of priority in the international phase was filed. Since the 16-month deadline for such correction had already passed, this request was rejected on February 21, 2005." Applicants state that these events led to incorrect priority information appearing in the published international application.

35 U.S.C. 365(b) provides that

In accordance with the conditions and requirements of section 119(a) of this title *and the treaty and the Regulations*, an international application designating the United States shall be entitled to the right of priority based on a prior foreign application, or a prior international application designating at least one country other than the United States (*italics added*)

while 37 CFR 1.55(a)(1)(ii) states that

In an application that entered the national stage from an international application after compliance with 35 U.S.C. 371, the claim for priority must be made during the pendency of the application and within the time limit set forth in the PCT and the Regulations under the PCT.

Foreign priority in the national stage is governed by 35 U.S.C. 365(b), which requires that the foreign priority claim comply with "the treaty and the Regulations" under the treaty (PCT). The time period for making the priority claim is specifically addressed by 37 CFR 1.55(a)(1)(ii), which requires that the claim be made "within the time limit set forth in the PCT and the Regulations under the PCT." In the instant case, the time period for addition or correction of the priority claim under PCT Rule 26*bis*.1 has expired. As such, it would not be appropriate on the basis of the present record to grant the requested correction of the priority claim.

### DECISION

The petition under 37 CFR 1.182 is **DISMISSED**, without prejudice.

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

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

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



# UNITED STATES PATENT AND TRADEMARK OFFICE

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HULSEY IP INTELLECTUAL PROPERTY LAWYERS, P.C.  
919 Congress Avenue, Suite 919  
AUSTIN, TX 78701

Mail Date: 04/21/2010

<b>Applicant</b>	: Jim Kohs	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7624159	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/555,915	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 11/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **302** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
10/555,943 01/25/2007 Yuho Aoki Q91178 9660

7590 07/20/2009
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

BEAULIEU, YONEL

ART UNIT PAPER NUMBER

3661

MAIL DATE DELIVERY MODE

07/20/2009

PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will not be recognized for the reason(s) indicated below:

- 1. [ ] The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. [ ] The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. [X] The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. [ ] The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management



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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
10/555,943 01/25/2007 Yuho Aoki Q91178 9660

7590 07/22/2009
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

BEAULIEU, YONEL

ART UNIT PAPER NUMBER

3661

MAIL DATE DELIVERY MODE

07/22/2009

PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)
The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will not be recognized for the reason(s) indicated below:

- 1. [ ] The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. [ ] The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. [x] The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. [ ] The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Handwritten signature: Nomi Farmer

Patent Publication Branch
Office of Data Management



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JACOBSON HOLMAN PLLC  
400 SEVENTH STREET N.W.  
SUITE 600  
WASHINGTON, DC 20004

Mail Date: 04/21/2010

<b>Applicant</b>	: Ingemar Andreasson	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7624685	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/555,959	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 01/30/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **580** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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

Mail Date: 04/20/2010

Applicant : Ulrich Muller : DECISION ON REQUEST FOR  
Patent Number : 7608728 : RECALCULATION of PATENT  
Issue Date : 10/27/2009 : TERM ADJUSTMENT IN VIEW  
Application No : 10/555,961 : OF WYETH AND NOTICE OF INTENT TO  
Filed : 11/08/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

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

The patent term adjustment has been determined to be **844** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 SEP 2009

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SIEMENS CORPORATION  
Intellectual Property Department  
170 Wood Avenue South  
Iselin, NJ 08830

In re Application of :  
HAAKS *et al* :  
U.S. Application No.: 10/555,970 :  
PCT No.: PCT/EP2004/004911 :  
Int. Filing Date: 07 May 2004 :  
Priority Date: 08 May 2003 :  
Attorney Docket No.: 2003P06555WOUS :  
For: METHOD FOR MODERNIZING A :  
TECHNICAL SYSTEM AND AN :  
APPROPRIATE DRIVE ELEMENT :

**DECISION**

This petition is in response to the papers filed on 19 June 2009 which are treated as a petition under 37 CFR 1.8(b). No fee is required.

**BACKGROUND**

On 07 August 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 03 October 2006, applicants purportedly filed via facsimile an executed declaration and authorized that the \$130.00 surcharge fee to be charged to Deposit Account No. 19-2179. However, these papers are not located in the file and the \$130.00 surcharge fee was not charged.

On 26 May 2009, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Form PCT/DO/EO/905 mailed 07 August 2006.

On 19 June 2009, applicants filed a petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, a declaration of Ann Hickey, a copy of a "Communication Result Report," and a copy of the documents purportedly filed 03 October 2006.

**DISCUSSION**

Applicants claim that they responded to the Form PCT/DO/EO/905 via facsimile

transmission on 03 October 2006. However, this response is not present in the file. As such, the subject application went abandoned for failure to respond to an office action.

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

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

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Applicants have provided a copy of the nine pages purportedly filed 03 October 2006 and a declaration by Ann Hickey. Applicants also included a copy of a "Communication Result Report" indicating that nine pages were received at the facsimile number listed on 03 October 2006.

A review of the cover page of the documents purportedly filed via facsimile on 03 October 2006 shows that the proper U.S. application number, title and applicants were recorded. The cover page certifies that a "Declaration" was among the papers received. A "Certificate of Mailing" was also listed on the cover page which was signed by Ann Hickey as transmitted on 03 October 2006. A declaration by Ms. Hickey was also provided which meets the requirements of 37 CFR 1.8(b)(3). The facsimile number listed on the "Communication Result Report" is an authorized USPTO number.

This evidence meets the requirements of 37 CFR 1.8(b).

### **CONCLUSION**

Applicants' petition under 37 CFR 1.8 is **GRANTED**.

The \$130.00 surcharge fee has been charged to Deposit Account No. 19-2179 as authorized.

The Form PCT/DO/EO/909 mailed 26 May 2009 is hereby VACATED.

The declaration originally filed via facsimile on 03 October 2006 is in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 07 May 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 19 June 2009.

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



James Thomson  
Attorney Advisor  
Office of PCT Legal Administration

Tel.: (571) 272-3302



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,021	11/08/2005	Rodney Lee Cravey	ACA6305P1US	4354

27624 7590 10/10/2008  
AKZO NOBEL INC.  
LEGAL & IP  
120 WHITE PLAINS ROAD, SUITE 300  
TARRYTOWN, NY 10591

EXAMINER

LISTVOYB, GREGORY

ART UNIT PAPER NUMBER

1796

MAIL DATE DELIVERY MODE

10/10/2008

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.



Control Number: 10/556,021

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10/10/08

caf

Mailed:

In re application of

Rodney Lee CRAVEY

Serial No. 10/556,021

Filed: November 8, 2005

For: CITRIC ACID BASED EMULSIFIERS FOR  
OILFIELD APPLICATIONS EXHIBITING  
LOW FLUORESCENCE

DECISION ON  
PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 for entry of the amendment filed February 29, 2008.

On September 18, 2007, a final office action was mailed to Applicants, rejecting all of the pending claims. Applicants responded to this office action with an amendment after final which was filed on January 18, 2008. The examiner refused entry of the amendment in an advisory action mailed January 31, 2008. A second amendment after final was filed on February 29, 2008. Again, the examiner refused entry of the amendment in an advisory action mailed April 8, 2008

On May 12, 2008, the instant petition under 37 CFR 1.181 was timely filed to request the entry of the after final amendment of August 4, 2003.

Petitioner's position is that the amendment after final did not raise any new issues as alleged by the examiner in the advisory action.

**DECISION**

Section 714.13 of the MPEP states:

Art Unit: 1700

### ENTRY NOT A MATTER OF RIGHT

It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims.

Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner, compliance with the requirement of a showing under 37 CFR 1.116(c) is expected in all amendments after final rejection. Failure to properly reply under 37 CFR 1.113 to the final rejection results in abandonment.

An amendment filed at any time after final rejection, but before an appeal brief is filed, may be entered upon or after filing of an appeal brief provided the total effect of the amendment is to (A) remove issues for appeal, and/or (B) adopt examiner suggestions.

### ACTION BY EXAMINER

See also MPEP § 706.07(f).

In the event that the proposed amendment does not place the case in better form for appeal, nor in condition for allowance, applicant should be promptly informed of this fact, whenever possible, within the statutory period. The refusal to enter the proposed amendment should not be arbitrary. The proposed amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified. Ordinarily, the specific deficiencies of the amendment need not be discussed. The reasons for nonentry should be concisely expressed. For example:

(A) The claims, if amended as proposed, would not avoid any of the rejections set forth in the last Office action, and thus the amendment would not place the case in condition for allowance or in better condition for appeal.

(B) The claims, if amended as proposed, would raise the issue of new matter.

(C) The claims as amended present new issues requiring further consideration or search.

(D) Since the amendment presents additional claims without canceling any finally rejected claims it is not considered as placing the application in better condition for appeal. *Ex parte Wirt*, 1905 C.D. 247, 117 O.G. 599 (Comm'r Pat. 1905).

The basis for the examiner's refusal to enter the after final amendments filed includes the following statement in the advisory action mailed May 2, 2008.

The amendments raises the following new issues: 1. In Claim 1 polyfunctional acid was replaced with citric acid, whereas in Claim 7 "polyfunctional acid is tall oil fatty acid" is claimed, which should be rejected under 35 USC 112(2) 2. The limitation of fluorescence value of less than 400 related to triamide of Claim 5. Citric acid claimed in Claim 8, which depends on Claim 7. The above Claim 8 has does not depend on Claim 5, which claims triamide. Therefore, the limitations of Claims 5,7 and 8 have never been considered together. Therefore, the Amendment raises new issues and the issue of new matter.

First, it is noted that the 35 USC 112, second paragraph rejection mentioned above would not be necessary since claim 7 was cancelled in the proposed amendment of February 29, 2008. Therefore, this is not an appropriate reason to refuse entry of the amendment.

Further, as noted by petitioner, the limitations of claims 5 and 8 (claim 7 being canceled) were in fact previously considered together by the examiner in his examination of claim 12.

Because the after final amendment does not present any new issues requiring further search and/or consideration, the denial of entry by the examiner was improper. Accordingly, the petition for entry of the after final amendment is **GRANTED**.

Application/Control Number: 10/556,021  
Art Unit: 1700

Page 4

Application/Control Number: 10/556,021

Page 5

Art Unit: 1700

It is noted that an appeal brief has been filed in the instant application. The application is being forwarded to the examiner for consideration of the brief in a manner consistent with this decision.

/JACQUELINE STONE/

---

Jacqueline M. Stone, Director  
Technology Center 1700  
Chemical and Materials Engineering

AKZO NOBEL INC.  
LEGAL & IP  
120 WHITE PLAINS ROAD, SUITE 300  
TARRYTOWN NY 10591



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STITES & HARBISON PLLC  
1199 NORTH FAIRFAX STREET  
SUITE 900  
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

**Applicant** : Dawid Moelich : DECISION ON REQUEST FOR  
**Patent Number** : 7637416 : RECALCULATION of PATENT  
**Issue Date** : 12/29/2009 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/556,027 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 11/08/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

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

The patent term adjustment has been determined to be **1086** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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**MAILED**

APR 20 2010

OFFICE OF PETITIONS

**PEARL COHEN ZEDEK, LLP  
1500 BROADWAY 12<sup>TH</sup> FLOOR  
NEW YORK, NY 10036**

In re Application of :  
David Elata et al :  
Application No. 10/556,033 : **DECISION ON PETITION**  
Filed: November 8, 2005 :  
Attorney Docket No. P-8279-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 28, 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 December 8, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3748 for appropriate action by the Examiner in the normal course of business on the reply received December 28, 2009.

/KOC/  
Karen Creasy  
Petitions Examiner  
Office of Petitions



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YOUNG & THOMPSON  
209 Madison Street  
Suite 500  
Alexandria, VA 22314

Mail Date: 05/07/2010

<b>Applicant</b>	: David Freson	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7614527	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/556,050	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 12/04/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **645** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



# UNITED STATES PATENT AND TRADEMARK OFFICE

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ARNOLD & PORTER LLP  
ATTN: IP DOCKETING DEPT.  
555 TWELFTH STREET, N.W.  
WASHINGTON, DC 20004-1206

Mail Date: 04/20/2010

<b>Applicant</b>	: Ferdinand Bach	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7604933	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/556,083	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 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 **234** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 JAN 2007

CONNOLLY BOVE LODGE & HUTZ LLP  
P.O. BOX 2207  
WILMINGTON DE 19899-2207

In re Application of	:	
Nishikawa et al.	:	
Application No. 10/556,086	:	
PCT No.: PCT/JP04/06475	:	
Int. Filing Date: 07 May 2004	:	COMMUNICATION
Priority Date: 09 May 2003	:	
Atty. Docket No.: AR21581-00354-US1	:	
For: Polycarboxylic Acid	:	
Concrete Admixture	:	

This is in response to the "Response To Notification Of Missing Requirements" filed on 17 July 2006.

**BACKGROUND**

This international application was filed on 07 May 2004, claimed an earliest priority date of 09 May 2003, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 18 November 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 09 November 2005. Applicants filed, *inter alia*, the basic national fee on 09 November 2005.

On 05 July 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring an oath or declaration compliant with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

**DISCUSSION**

The instant "Response..." is accompanied by an executed declaration of inventorship. Inspection of said declaration reveals that it names a joint inventor, "Hirokazu Yamamoto," who is not named in the published international application; meanwhile, the published international application nominates "YAMAMOTO, Koichi," who is not nominated by the declaration. MPEP 605.04(b) states in part that

Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.

Since the discrepancy noted above represents more than a mere typographic error or phonetic misspelling of applicant's name, a petition and fee under 37 CFR 1.182 (or a newly executed oath or declaration nominating the same inventive entity as the published international application) is required. *See also* MPEP MPEP § 201.03(b).

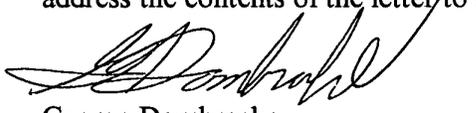
The instant "Response..." is accompanied by a "Submission Of Statement To Correct Name Of Co-Inventor" and a "Statement To Correct Name Of Co-Inventor As Filed In A PCT Application" which indicate that that the inventor's correct name is Hirokazu Yamamoto. The Remarks filed on 09 November 2005 also indicate that "his name was incorrectly presented in the PCT as Koichi Yamamoto and should have been Hirokazu Yamamoto." However, applicants have not filed a formal petition (and fee) under 37 CFR 1.182, as required under MPEP 605.04(b). Nor have applicants provided an explanation or showing as to how the discrepancy arose. Therefore, it would not be appropriate to accept the declaration on the basis of the present record.

### CONCLUSION

The declaration is **NOT ACCEPTED**, without prejudice.

Applicants are required to file a response within either (1) a **ONE (1) MONTH** of the mailing date of this decision (extensions of time under 37 CFR 1.136(a) are **NOT** available), or (2) the remaining period for response to the Notification of Missing Requirements mailed on 05 July 2006, as extendable under 37 CFR 1.136(a), whichever expires later. Failure to timely reply will result in **ABANDONMENT**.

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



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

16 MAR 2007

United States Patent and Trademark Office



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CONNOLLY BOVE LODGE' & HUTZ LLP  
P.O. BOX 2207  
WILMINGTON DE 19899-2207

In re Application of	:	
Nishikawa et al.	:	
Application No. 10/556,086	:	
PCT No.: PCT/JP04/06475	:	
Int. Filing Date: 07 May 2004	:	DECISION
Priority Date: 09 May 2003	:	
Atty. Docket No.: AR21581-00354-US1	:	
For: Polycarboxylic Acid	:	
Concrete Admixture	:	

This is in response to the petition under 37 CFR 1.182 filed on 02 February 2007.

**DISCUSSION**

In a Communication mailed on 12 January 2007, the declaration filed on 17 July 2006 was not accepted, without prejudice, because

Inspection of said declaration reveals that it names a joint inventor, "Hirokazu Yamamoto," who is not named in the published international application; meanwhile, the published international application nominates "YAMAMOTO, Koichi," who is not nominated by the declaration. MPEP 605.04(b) states in part that...

Since the discrepancy noted above represents more than a mere typographic error or phonetic misspelling of applicant's name, a petition and fee under 37 CFR 1.182 (or a newly executed oath or declaration nominating the same inventive entity as the published international application) is required. See also MPEP MPEP § 201.03(b).

The instant "Response..." is accompanied by a "Submission Of Statement To Correct Name Of Co-Inventor" and a "Statement To Correct Name Of Co-Inventor As Filed In A PCT Application" which indicate that that the inventor's correct name is Hirokazu Yamamoto. The Remarks filed on 09 November 2005 also indicate that "his name was incorrectly presented in the PCT as Koichi Yamamoto and should have been Hirokazu Yamamoto." However, applicants have not filed a formal petition (and fee) under 37 CFR 1.182, as required under MPEP 605.04(b). Nor have applicants provided an explanation or showing as to how the discrepancy arose. Therefore, it would not be appropriate to accept the declaration on the basis of the present record.

In response, petitioner explains that "this error occurred due to the fact that the Chinese Character of the given name of Mr. Yamamoto has two pronunciations in Japan, "Koichi" and

“Hirokazu,” both of which are very popular in Japan. Inadvertently, the wrong pronunciation was inadvertently selected and Mr. Yamamoto’s name was incorrectly listed in the PCT application as Koichi Yamamoto, instead of Hirokazu Yamamoto.” It is not clear from petitioner’s statement whether this explanation is made on the basis of first-hand knowledge. If not, it would be appropriate to provide a corroborating statement by an individual having first-hand knowledge of the facts involved. In addition, a statement by Mr. Hirokazu Yamamoto indicating that he is in fact the same person as the inventor named “Yamamoto” in the published international application would be appropriate. In the absence of such statements clearly made on the basis of first-hand knowledge, it would not be appropriate to grant the requested relief on the basis of the present record.

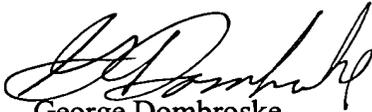
**CONCLUSION**

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

Petitioner paid a petition fee in the amount of \$130.00, rather than the correct amount of \$400.00. Accordingly, the \$270.00 shortfall is being charged to counsel’s Deposit Account No. 22-0185, per the authorization included in the petition.

Applicants are required to file a response within **TWO (2) MONTHS** of the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are available. The response should be entitled “Renewed Petition Under 37 CFR 1.182.” No further petition fee is due. Failure to timely reply will result in **ABANDONMENT**.

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



George Dombroske  
PCT Legal Examiner  
Office of PCT Legal Administration  
Tel: (571) 272-3283  
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11 JUN 2007



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CONNOLLY BOVE LODGE & HUTZ LLP  
1875 EYE STREET, N.W.  
SUITE 1100  
WASHINGTON, DC 20036

In re Application of	:	
Nishikawa et al.	:	
Application No. 10/556,086	:	
PCT No.: PCT/JP04/06475	:	
Int. Filing Date: 07 May 2004	:	DECISION
Priority Date: 09 May 2003	:	
Atty. Docket No.: AR21581-00354-US1	:	
For: Polycarboxylic Acid	:	
Concrete Admixture	:	

This is in response to the renewed petition under 37 CFR 1.182 filed on 09 May 2007.

**DISCUSSION**

In a Decision mailed on 16 March 2007, the petition under 37 CFR 1.182 filed on 02 June 2007 was dismissed and the declaration filed on 17 July 2006 was not accepted, without prejudice, because

...petitioner explains that "this error occurred due to the fact that the Chinese Character of the given name of Mr. Yamamoto has two pronunciations in Japan, "Koichi" and "Hirokazu," both of which are very popular in Japan. Inadvertently, the wrong pronunciation was inadvertently selected and Mr. Yamamoto's name was incorrectly listed in the PCT application as Koichi Yamamoto, instead of Hirokazu Yamamoto." It is not clear from petitioner's statement whether this explanation is made on the basis of first-hand knowledge. If not, it would be appropriate to provide a corroborating statement by an individual having first-hand knowledge of the facts involved. In addition, a statement by Mr. Hirokazu Yamamoto indicating that he is in fact the same person as the inventor named "Yamamoto" in the published international application would be appropriate. In the absence of such statements clearly made on the basis of first-hand knowledge, it would not be appropriate to grant the requested relief on the basis of the present record.

Petitioner now presents a statement by Manabu Nishida corroborating, on the basis of fist-hand knowledge, the manner in which the discrepancy in Mr. Yamamoto's name arose. Petitioner also presents a statement by Hirokazu Yamamoto that "I am the same person as the inventor named 'Koichi Yamamoto' in the PCT/JP2004/006475." Based on the totality of the evidence currently of record, it would be appropriate to accept petitioner's explanation of the discrepancy in the inventor's name.

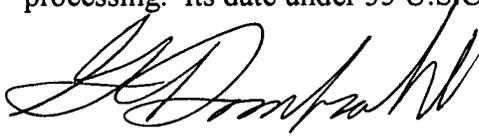
CONCLUSION

The petition is **GRANTED**.

The declaration filed on 17 July 2006 is **ACCEPTED** for purposes of compliance with 37 CFR 1.497(a) and (b).

The \$130.00 petition fee charged to Deposit Account No. 22-0185 on 09 May 2007 was not required, and it is being refunded to said Deposit Account as authorized by the instant petition.

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 **17 July 2006**.



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

Adjustment Date: 06/11/2007 SBASHEIR  
05/18/2007 INTFSW 00001894 220185 10556086  
01 FC:1464 130.00 CR



30 MAY 2008

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ROPES & GRAY LLP  
PATENT DOCKETING 39/41  
ONE INTERNATIONAL PLACE  
BOSTON, MA 02110-2624

In re Application of:	:	
TEDDER, Thomas, et al.	:	DECISION ON PETITION UNDER
U.S. Application No.: 10/556,104	:	37 CFR 1.47(a)
PCT No.: PCT/US2004/014326	:	
International Filing Date: 07 May 2004	:	
Priority Date: 09 May 2003	:	
Atty's Docket No.: 102728-P01-003	:	
For: CD20-SPECIFIC ANTIBODIES AND	:	
METHODS OF EMPLOYING SAME	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(a)" filed 14 March 2008. Applicants have paid the required petition fee.

### **BACKGROUND**

On 07 May 2004, applicants filed international application PCT/US2004/014326. The international application claimed a priority date of 09 May 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., 09 November 2005.

On 08 November 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 September 2007, 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 was required.

On 14 March 2008, applicants filed a response to the Notification Of Missing Requirements (with required four-month extension fee). The response included declarations executed by three of the four inventors of record, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of inventor Junji UCHIDA, whom applicants assert has refused to execute the application.

## DISCUSSION

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

Applicants here have provided the required petition fee, and the petition states the last known address of the non-signing inventor. Items (1) and (2) are therefore satisfied.

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

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

Here, applicants have filed a declaration executed by three of the four inventors of record in the international application which includes an unsigned signature block for the non-signing inventor, Junji UCHIDA. This declaration can be accepted as having been executed by the signing inventors on their own behalf and on behalf of the non-signing inventor. Item (3) is therefore satisfied.

Regarding item (4), MPEP section 409.03(d) states that, before it can be concluded that an inventor has refused to execute 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 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, as evidence of the inventor's refusal to execute the declaration, applicants have provided a statement of facts from Jennifer K. Holmes, with supporting documents. The statement and supporting documents provide the required firsthand showing that a request for signature, accompanied by a copy of the complete application, was forwarded to the non-signing inventor at his last known address, that the materials were received by the inventor, and that the inventor (despite subsequent reminders), has failed to provide the requested signature. These materials provide an acceptable showing that the non-signing inventor has refused to execute the declaration. Item (4) is therefore satisfied.

**CONCLUSION**

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

The application is accepted without the signature of non-signing inventor Junji UCHIDA.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the non-signing inventor of the application will be forwarded to the inventor's last-known address, as set forth in the petition.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 14 March 2008.



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



UNITED STATES PATENT AND TRADEMARK OFFICE

30 MAY 2008

Commissioner for Patents  
United States Patent and Trademark Office  
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[www.uspto.gov](http://www.uspto.gov)

Mr. Junji UCHIDA  
Nansuien-chou 19-13  
Neyagawa City  
Osaka, 572-0826  
JAPAN

In re Application of: TEDDER, Thomas, et al.  
U.S. Application No.: 10/556,104  
PCT No.: PCT/US2004/014326  
International Filing Date: 07 May 2004  
Priority Date: 09 May 2003  
Atty's Docket No.: 102728-P01-003  
For: CD20-SPECIFIC ANTIBODIES AND METHODS OF EMPLOYING SAME

Dear Mr. UCHIDA:

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

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

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

Counsel Of Record:  
ROPES & GRAY LLP  
PATENT DOCKETING 39/41  
ONE INTERNATIONAL PLACE  
BOSTON, MA 02110-2624



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

COPY MAILED  
MAR 11 2010

In re Patent No. 7,446,281 :  
Issue Date 4 November, 2008 :  
Application No. 10/556,151 : DECISION  
Filed: 9 November, 2005 :  
Attorney Docket No. 4492-0139PUS1 :

This is a decision on the petition filed on 4 September, 2009, requesting issuance of duplicate Letters Patent for the above-identified patent/application under 37 C.F.R. §1.182.<sup>1</sup>

The petition is **GRANTED**.

#### BACKGROUND

Petitioner has made demand upon the Office to issue duplicate Letters Patent in the instant matter.

Petitioner has declared that the patent was lost, cannot be located, and has demonstrated that the petition fee has been paid.

The Publishing Division is directed to issue duplicate Letters Patent.

A copy of this decision is being forwarded to Publishing Division for issuance of duplicate Letters Patent.

The file is being released to the IFW Repository.

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<sup>1</sup> The regulations at 37 C.F.R. §1.182 provide:

**§ 1.182 Questions not specifically provided for.**

All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h). [47 Fed. Reg. 41278, Sept. 17, 1982, effective date Oct. 1, 1982; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

Patent No. 7,446,281  
Application No. 10/556,151

Any questions regarding the issuance of the duplicate Letters Patent should be directed to Ms. Niomi Farmer, Office of Data Management, Fax: 571-270-9753.

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<sup>4</sup>) 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

cc: Ms. Niomi Farmer, Office of Data Management

---

<sup>4</sup> The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

09 MAY 2006

#9



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Oliff & Berridge, PLC  
P.O. Box 19928  
Alexandria, VA 22320

In re Application of :  
HENDRIKS et al. :  
Application No.: 10/556,152 :  
PCT No.: PCT/EP04/04695 :  
Int. Filing Date: 04 May 2004 :  
Priority Date: 08 May 2003 :  
Attorney Docket No.: 125725 :  
For: NON-FIBROUS POLYMER SOLUTION  
OF PARA-ARAMID WITH HIGH  
RELATION VISCOSITY

DECISION ON PETITION

The petition to revive under 37 CFR 1.137(b) filed 09 November 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

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

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

29 JAN 2007

Commissioner for Patents  
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Alexandria, VA 22313-1450

O'SHEA, GETZ & KOSAKOWSKI, P.C.  
1500 MAIN ST.  
SUITE 912  
SPRINGFIELD MA 01115

In re Application of:	:	
GOMES, Celio, J., et al.	:	DECISION ON PETITION
U.S. Application No.: 10/556,154	:	UNDER 37 CFR 1.137(b)
Int'l Application No: PCT/US2004/012903	:	
Int'l Filing Date: 27 April 2004	:	
Priority Date: 28 April 2003	:	
Atty Docket No.: 6891-0003WOUS	:	
For: A ROLL-OUT COVER SYSTEM FOR	:	
OPEN CONTAINER VEHICLES	:	

The petition to revive under 37 CFR 1.137(b) filed 07 November 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 small entity basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the United States of America.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497.

*nee n*

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



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

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

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

Eva James  
For Mary Diggs  
Decisions & Certificates  
of Correction Branch  
(703) 756-1583 or 1580

Oliff & Berridge  
P.O. Box 320850  
Alexandria, Virginia 22320-4850

ej



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

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**AUG 14 2009**

**OFFICE OF PETITIONS**

In re Patent No. 7,507,679 :  
Issue Date: March 24, 2009 :  
Application No. 10/556,155 :  
Filed: November 9, 2005 :  
Attorney Docket No. 125898 :

ON PETITION.

This is a decision on the petition filed June 19, 2009, under 37 CFR 3.81(b)<sup>1</sup> to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

  
Irvin Dingle  
Petitions Examiner  
Office of Petitions

---

<sup>1</sup> See Official Gazette of June 22, 2004



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

**MAILED**  
JUN 25 2010  
OFFICE OF PETITIONS

In re Application of Muschelknautz :  
Application No. 10/556,165 : Decision on Petition  
Filing Date: December 12, 2006 :  
Attorney Docket No. LINDE-0629 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 12, 2010, to revive the application.

The petition is **granted**.

The application became abandoned for failure to reply in a proper manner to the final Office action issued August 17, 2009, which set a shortened statutory period for reply of three (3) months. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 18, 2009. A Notice of Abandonment was issued March 17, 2010.

The instant petition requests revival of the application.

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

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

As to item (1), petitioner has submitted a reply to the final Office action in the form of a Notice of Appeal filed on March 12, 2010.

**The Notice of Appeal filed on March 12, 2010, has been entered and made of record. Accordingly the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.**

As to item (2), petitioner has submitted the required petition fee of \$1620.

As to item (3), petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

As to item (4), a terminal disclaimer is unnecessary.

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

The petition was accompanied by a payment of \$980 for a three (3) month extension of time. Payment for extension of time is not required when reviving an application and has been credited back to the credit card used to make the payment.

Technology Center Art Unit 1797 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Steven Brantley at (571) 272-3203 or in his absence to Amy Gandhi at (571) 272-6699.



Charles Steven Brantley  
Senior Petitions Attorney  
Office of Petitions



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KENYON & KENYON LLP  
ONE BROADWAY  
NEW YORK, NY 10004

Mail Date: 04/21/2010

**Applicant** : Dietmar Krieg : DECISION ON REQUEST FOR  
**Patent Number** : 7591179 : RECALCULATION of PATENT  
**Issue Date** : 09/22/2009 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/556,172 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 02/12/2007 : ISSUE CERTIFICATE OF CORRECTION  
:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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DREISS, FUHLENDORF, STEIMLE & BECKER  
POST FACH 10 37 62  
D-70032 STUTTGART  
FED. REP. OF GERMANY

Applicant: Roehrl et al.  
Appl. No.: 10/556,187  
International Filing Date: 12 May 2004  
Title: SINGLE USE HYGIENE ARTICLE  
Attorney Docket No.: 17031471 US  
Pub. No.: US 2006/0282053-A1  
Pub. Date: December 14, 2006

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**JAN 17 2008**

**OFFICE OF PETITIONS**

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 25, 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 the inventor's name Wolfgang Roehrl appears as "Rohrl" and the second inventor's name (Hans-Peter Stupperich) was omitted from the publication and the inventor's residence "Herbrechtingen" was misprinted as "Hebrechtingen".

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.<sup>1</sup>

The error noted by requestor with respect to the first inventor's name, which was printed as "Rohrl" rather than "Roehrl" is not an Office error, as Rohrl was provided on the signed declaration. To correct this Applicant should file an Application Data Sheet (ADS).

---

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

The error on the front page of the publication wherein the second inventor's name (Hans-Peter Stupperich) was omitted from the publication, and the first inventor's residence "Herbrechtingen" was misprinted as "Hebrechtingen" may be Office errors, but they are not material Office errors under 37 CFR 1.221. The omission of an inventor's name and a typographical error in an inventor's residence do not affect the understanding of the application. The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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

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

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

By facsimile: 571-273-8300

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



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



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AL HERNANDEZ  
44-525 VERBENA DRIVE  
LA QUINTA, CA 92253

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MAY 19 2008

**OFFICE OF PETITIONS**

In re Application of  
Aiman H. Al-Ziyoud  
Application No. 10/556,201  
Filed: March 7, 2007  
Attorney Docket No. 2661-002 NATL

DECISION ON PETITION  
TO WITHDRAW  
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 1, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Al Hernandez has been revoked by the applicant of the patent application on January 24, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

*April M. Wise*  
April M. Wise  
Petitions Examiner  
Office of Petitions

cc: BERESFORD & CO.  
16 HIGH HOLBORN  
LONDON WC1V 6BX UNITED KINGDOM



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

8/5/08

*In re* Application of:  
Petersen, Hanskurt  
Serial No.: 10/556,203  
Filed: Nov. 9, 2005  
Docket: 6495-0137WOUS  
Title: SERVO VALVE FOR A VACUUM  
SYSTEM

DECISION ON PETITION TO  
WITHDRAW HOLDING OF  
FINALITY

This is a decision on the petition filed on Nov. 30, 2007 to withdraw the finality of the Office action of Oct. 9, 2007. The petition is being considered pursuant to 37 CFR § 1.181 and no fee is required for the petition.

The petition is dismissed.

In the petition, the applicant requests withdrawal of the finality of the Office action mailed Oct. 9, 2007. The petitioner claims that the amendment of May 29, 2007 were directed towards minor grammatical issues and did not make any substantive changes to the claimed invention. Particularly, petitioner argues that the phrase "biased against its closed positions" was changed to "biased towards its closed position" in independent claims 15, 17 and 28 constitutes only minor changes aimed at improving the language of the claims and do not alter the claimed subject matter. The Office action should not have been made final. Petitioner requests the finality of the last Office action of Oct. 9, 2007 be withdrawn.

The record shows that:

1. On Feb. 27, 2007, the examiner issued a non-final Office action, inter alia, rejecting claims 15-24, 27 and 28 under 35 U.S.C § 102(b) over Schnittker, (U.S. Pat. 3,942,975) based on the first disclosed embodiment.
2. In response to the non-Final rejection, on May 29, 2007, the applicant filed an amendment. In the amendment of May 29, 2007, the applicant also amended independent claims 15 and 28 and dependent claim 17 by changing the phrase "biased against its closed positions" to "biased towards its closed position" to overcome the rejection under 35 USC 102(b) over Schnittker, (U.S. Pat. 3,942,975). In particular, on page 6 of the Remarks, the applicant argued that Schnittker does not show or disclose

each and every recitation of Applicant's claim 15 or 28. For instance, Schnittker does not show or disclose a pilot closure member that is biased towards its closed position by an elastically compressible member acting between a housing and the pilot closure member. Instead, Schnittker discloses that valve member 26 is biased against hub 35 by a spring 41, which apparently acts between valve assembly 61 and pin 44. Schnittker's spring 41, therefore, does not show or disclose an elastically compressible member acting between a housing and a pilot closure member, as is recited by Applicant's claims 15 and 28.

3. In response to the applicant's amendment, on Oct. 9, 2007, the examiner mailed a final Office action rejecting claims 15-24 and 27-28 as anticipated by 35 U.S.C § 102(b) over Schnittker, (U.S. Pat. 3,942,975) based on a second embodiment of the Schnittker patent. In the rejection, the examiner stated that the applicant's amendment of May 29, 2007 necessitated the new ground(s) of rejection.
4. On Nov. 30, 2007, the present petition was filed requesting withdrawal of the finality of the Office action mailed Oct. 9, 2007 based on petitioner's belief that the new ground of rejection was not made necessary by the applicant's amendment of May 29, 2007.

#### Discussion and Analysis

In order to determine whether or not the amendment filed on May 29, 2007 necessitated the new grounds of rejection in the final Office action of Oct. 9, 2007, a comparison of at least the amended independent claims 15 and 28 filed on May 29, 2007 and the previous claims 15 and 28 as originally filed on Nov. 9, 2005 must be made. As correctly pointed out in the petition that the changes of the phrases "biased against its closed positions" to "biased towards its closed position" were made in independent claims 15 and 28. Petitioner argues that the changes constitute only minor changes aimed at improving the language of the claims and do not alter the claimed subject matter. The Office action should not have been made final.

This line of arguments is not convincing because the changes were more than minor. The amendment to claims 15 and 28 in fact changed the scope of the claims so that the valve is biased closed which read directly on the second embodiment of the prior art. In particular, the applicant made arguments on page 6 of the Remarks of the amendment of May 29, 2007 stating that Schnittker does not show or disclose a pilot closure member that is biased towards its closed position by an elastically compressible member acting between a housing and the pilot closure member. In response, on page 3 of the final rejection, the examiner applied the second embodiment of the Schnittker patent and interpreted that the closure member 11, 61 is biased towards the closed position by an elastically compressible member 50. The second embodiment of Schnittker patent reads on the newly amended claims 15 and 28. Applicant's amendment to independent claims 15 and 28 does necessitate the new grounds of rejection as stated in the final rejection of Oct. 9, 2007.

The review of the record shows that the examiner was in compliance with proper examining practice as set forth in M.P.E.P. 706.07(a)<sup>1</sup>. Therefore, the amendment to the claims presented on Jun. 8, 2007 necessitated the new grounds of rejection presented in the final Office action issued on Aug. 23, 2007. The finality of the Office action is therefore appropriate.

It should be noted that in the first non-final Office action, the examiner rejected claims 15-24, 27 and 28 under 35 U.S.C § 102(b) over Schnittker, (U.S. Pat. 3,942,975) based on the first embodiment of Schnittker patent. In response to the applicant's amendment of May 29, 2007, the examiner rejected the amended claims 15-24, 27 and 28 under 35 U.S.C § 102(b) over Schnittker, (U.S. Pat. 3,942,975) based on the second embodiment of the Schnittker patent. Since the statutory basis and the evidence relied upon in the first non-final Office action of Feb. 27, 2007 and the final Office action of Oct. 9, 2007 remained unchanged. The applicant has had sufficient opportunity to study the reference and to react to the rejection. Therefore, the final Office action of Oct. 9, 2007 would not have constituted new grounds of rejection in accordance with MPEP 1203.03(III)<sup>2</sup>. The final rejection stands.

#### Conclusion

For the foregoing reasons, the relief requested by petitioners will not be granted. Specifically, the examiner's finality of the Office action dated Oct. 9, 2007 is proper in accordance with the USPTO practices.

The application is being forwarded to Examiner Fristoe, Jr. of Art Unit 3753 for scheduling of a Pre-Brief Conference as requested by the applicant's Pre-Brief Appeal Conference Request filed on Apr. 8, 2008. 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

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<sup>1</sup> Relevant portions of MPEP 706.07(a): Final Rejection, When Proper on Second Action, states: Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). Where information is submitted in an information disclosure statement during the period set forth in 37 CFR 1.97(c) with a fee, the examiner may use the information submitted, e.g., a printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. See MPEP § 609.04(b).

<sup>2</sup> Relevant portions of MPEP 1207.03 III states: There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See *In re Kronig*, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection. *Id.* At 1303, 190 USPQ at 427 (reliance upon fewer references in affirming a rejection under 35 U.S.C. 103 does not constitute a new ground of rejection).

entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

**PETITION DISMISSED.**



---

Karen M. Young, Director  
Technology Center 3700



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**ALEXANDRIA VA 22313-1404**

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**DEC 04 2009**

**OFFICE OF PETITIONS**

In re Application of :  
Morten Middelfart :  
Application No. 10/556,214 :  
Filed: October 2, 2006 :  
Attorney Docket No. 1032927-000077 :

NOTICE

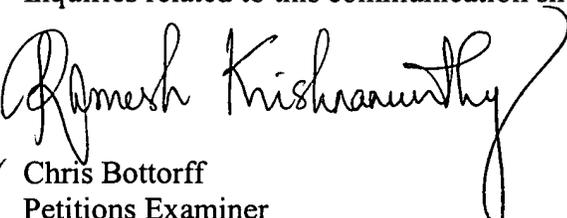
This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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 Terri Johnson at (571) 272-2991.

  
for Chris Bottorff  
Petitions Examiner  
Office of Petitions



13 MAR 2007

MANELLI DENISON & SELTER  
2000 M STREET NW SUITE 700  
WASHINGTON, DC 20036-3307

In re Application of SANPEI et al	:	
U.S. Application No.: 10/556,218	:	
PCT Application No.: PCT/JP2004/006256	:	
Int. Filing Date: 11 May 2004	:	
Priority Date Claimed: 12 May 2003	:	DECISION
Attorney Docket No.: 46448	:	
For: PROCESS FOR PRODUCING	:	
SUBSTITUTED AMINOQUINAZOLINONE	:	
DERIVATIVE...	:	

This is in response to applicant's "Request to Withdraw Notification of Missing Requirements" filed 11 August 2006, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

**BACKGROUND**

On 11 May 2004, applicant filed international application PCT/JP2004/006256, which claimed priority of an earlier Japan application filed 12 May 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 18 November 2004. The thirty-month period for paying the basic national fee in the United States expired on 12 November 2005.

On 10 November 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 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 11 August 2006, applicant filed the present petition under 37 CFR 1.181.

**DISCUSSION**

The evidence of record is sufficient to establish that the declaration was originally filed on 10 November 2005. Specifically, the copy of the return postcard, which includes the declaration in its itemized contents and which bears a USPTO date stamp of 10 November 2005, serves as *prima facie* evidence that the declaration was received by the USPTO on 10 November 2005.

**CONCLUSION**

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

The Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 22 June 2006 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 11 May 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 10 November 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



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LEYDIG, VOIT & MAYER, LTD.  
TWO PRUDENTIAL PLAZA, SUITE 4900  
180 NORTH STETSON AVENUE  
CHICAGO, IL 60601-6731

Mail Date: 04/20/2010

**Applicant** : Serge L. Beaucage : DECISION ON REQUEST FOR  
**Patent Number** : 7612197 : RECALCULATION of PATENT  
**Issue Date** : 11/03/2009 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/556,219 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 11/09/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

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

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



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Paper No.

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

**MAILED**

**JUN 22 2009**

**OFFICE OF PETITIONS**

In re Application of :  
Parmee et al. :  
Application No. 10/556,230 : ON APPLICATION FOR  
Filed: November 9, 2005 : PATENT TERM ADJUSTMENT  
Atty Docket No. 21241P :

This is in response to the PETITION PURSUANT TO 37 C.F.R. § 1.181 AND APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. §1.705 filed March 30, 2009. Applicants submit that the correct patent term adjustment is 605 days plus the full period of three years calculated from the date that is three years from the filing date, i.e., November 9, 2008, to the patent is granted<sup>1</sup>. Referring to Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined).

---

<sup>1</sup> Applicants base this calculation of the period of adjustment for Office delay in taking in excess of three years to issue the patent from the date of commencement of the national stage under 371.

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The determination of the patent term adjustment at the time of the mailing of the notice of allowance remains six hundred five (605) days.

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

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

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

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

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with a large loop at the end.

Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions



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P.O. BOX 10395  
CHICAGO, IL 60610

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**JUL 27 2009**

**OFFICE OF PETITIONS**

In re Application of :  
Tim Haulick, et al. :  
Application No. 10/556,232 :  
Filed: November 9, 2005 :  
Attorney Docket No. 11336-1204 (P03088US) :

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 15, 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 request cannot be approved because the practitioner(s) requesting the withdrawal have not certified that they have (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment; (2) deliver to the client or duly authorized representative of the client papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond. The failure to do so may subject the practitioner to discipline. It is also noted that false certification may violate a practitioners' duty under 37 CFR 10.23(b)(4) and (b)(5).

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

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

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

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

Attachment: Blank copy of PTOL/SB/83 Form

cc: ROBERT P. HART, ESQ.  
HARMAN INTERNATIONAL INDUSTRIES, INCORPORATED  
8500 BALBOA BOULEVARD  
NORTHRIDGE, CA 91329



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FOX ROTHSCHILD LLP  
2000 MARKET STREET  
PHILADELPHIA, PA 19103

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Application of :  
Petra Biehl, et al. :  
Application No. 10/556,233 :  
Filed: February 9, 2007 :  
Attorney Docket No. C 2774 PCT/US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 11, 2008. No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 12, 2008. This decision precedes the mailing of a Notice of Abandonment. On January 23, 2009, the present petition was filed.

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

The application is being referred to Technology Center AU 1621 for processing of the RCE in accordance with 37 CFR 1.114.

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

  
Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions



10 APR 2007

Robert J. Irvine, III  
McDonnell Boehnen Hulbert & Berghoff, LLP  
300 S. Wacker Drive  
32<sup>nd</sup> Floor  
Chicago, IL 60606

In re Application of	:	
LEE	:	DECISION ON PETITION
Application No.: 10/556,267	:	
PCT No.: PCT/KR04/01276	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 28 May 2004	:	
Priority Date: 30 May 2003	:	
Atty Docket No.: 05-439-B	:	
For: REMOTE UNIT FOR ADDING FREQUENCY	:	
ASSIGNMENTS TO A SEPARATION-TYPE	:	
BASE TRANSCEIVER STATION	:	

This decision is in response to the "Petition Under 37 CFR § 1.47(b)" filed 05 March 2007 in the United States Patent and Trademark Office (USPTO).

**BACKGROUND**

On 28 May 2004, applicant filed international application PCT/KR04/01276, which claimed a priority date of 30 May 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 09 December 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, 30 November 2005.

On 14 November 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee.

On 30 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 executed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 05 March 2007, applicant responded with the present petition accompanied by a petition for a two-month extension of time. With the payment of the two-month extension of time fee and certification under 37 CFR 1.8 that the present mailing was deposited on 28 February 2007, applicant's present filing is considered timely filed.

### DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition 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 non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Applicant has satisfied items (1) and (3)-(6).

Regarding item (2), according to the enclosed declaration of Jiwon Lim, he attempted to mail a complete set of the application papers to the inventor. These papers were returned as they were mailed to an incorrect address. It assumed that since Mr. Lim then attempted to find a current address that the address originally mailed to was incorrect because the inventor no longer lived there. As such, applicant is required to show that a diligent effort was made to locate the missing inventor. As stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "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." The statement of facts from Mr. Lim does not satisfy this item. Mr. Lim states that "All efforts to obtain a current address, phone number, or email address, using Korea Info Service Corporation have failed to provide new information concerning the whereabouts of Mr. Lee." In addition, Mr. Lim states that he was unable to find an email address for Mr. Lee using a well-known Korean web mail service using his residence identification information. However, Mr. Lim does not detail these efforts nor include copies of his search results. Mr. Lim does not provide an explanation of what the Korea Info Service Corporation is or how using old residence information would enable him to presently locate the inventor. A renewed petition under 37 CFR 1.47(b) should include the results of any internet or telephone directory searches which were performed in an effort to locate the non-signing inventor, as well as, an explanation of the searches by the party attempting to locate Mr. Lee.

In light of the above, it is not possible to grant applicant's petition at this time.

### CONCLUSION

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

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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



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



21 JUN 2007

Robert J. Irvine, III  
McDonnell Boehnen Hulbert & Berghoff, LLP  
300 S. Wacker Drive  
32<sup>nd</sup> Floor  
Chicago, IL 60606

In re Application of	:	
LEE	:	DECISION ON RENEWED
Application No.: 10/556,267	:	
PCT No.: PCT/KR04/01276	:	PETITION UNDER
Int. Filing Date: 28 May 2004	:	
Priority Date: 30 May 2003	:	37 CFR 1.47(b)
Atty Docket No.: 05-439-B	:	
For: REMOTE UNIT FOR ADDING FREQUENCY	:	
ASSIGNMENTS TO A SEPARATION-TYPE	:	
BASE TRANSCEIVER STATION	:	

This decision is in response to the renewed petition under 37 CFR § 1.47(b) filed 06 June 2007 in the United States Patent and Trademark Office (USPTO).

**BACKGROUND**

On 10 April 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(b). Applicant was afforded two months to file any request for reconsideration.

On 06 June 2007, applicant filed the present renewed petition.

**DISCUSSION**

As detailed in the decision mailed 10 April 2007, a petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition 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 non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Applicant previously satisfied items (1) and (3)-(6).

With the filing of the present renewed petition and accompanying documentation, including update declaration of Ms. Jiwon Lim, applicant has satisfied the last remaining item and it is appropriate to grant applicant's renewed petition at this time.

**CONCLUSION**

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

The application has an international filing date of 28 May 2004 under 35 U.S.C. 363, and will be given a date of **05 March 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known addresses of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

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



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

DATE 6/21/07

APPLICATION NUMBER 10/556,247

DOC CODE 667R

DOC DATE 6-21-07

DELIVER THE ATTACHED FILE/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



21 JUN 2007

Mr. Jae Ick Lee  
Jugong Apt. 1005-2502  
1120 Sanbon-dong  
Gunpo-si  
Gyeonggi-do 435-040  
REPUBLIC OF KOREA

In re Application of :  
LEE :  
Application No.: 10/556,267 :  
PCT No.: PCT/KR04/01276 :  
Int. Filing Date: 28 May 2004 :  
Priority Date: 30 May 2003 :  
Atty Docket No.: 05-439-B :  
For: REMOTE UNIT FOR ADDING FREQUENCY :  
ASSIGNMENTS TO A SEPARATION-TYPE :  
BASE TRANSCEIVER STATION :

Dear Mr. Lee:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, the law firm of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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

Robert J. Irvine, III  
McDonnell Boehnen Hulbert & Berghoff, LLP  
300 S. Wacker Drive  
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Chicago, IL 60606  
United States of America



23 JUL 2007

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McDONNELL BOEHLEN HULBERT & BERGHOFF LLP.  
300 SOUTH WACKER DRIVE  
SUITE 3100  
CHICAGO, IL 60606

In re Application of :  
CHUN, Sea Gon : DECISION ON  
Application No.: 10/556,274 :  
PCT No.: PCT/KR04/01274 : PETITION  
Int. Filing Date: 28 May 2004 :  
Priority Date: 30 May 2003 : UNDER 37 CFR 1.47(b)  
Attorney's Docket No.: 05-615-B :  
For: Method For Call Completion Service :

This is a decision on applicant's "Petition Under 37 C.F.R. 1.47(b)," filed in the United States Patent and Trademark Office on 24 November 2006 on behalf of the assignee and the non-signing inventor Sea Gon Chun. The petition under 37 CFR 1.47(b) is **DISMISSED**.

#### BACKGROUND

On 28 May 2004, applicant filed international application PCT/KR04/01274, claiming a priority date of 30 May 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 November 2005.

On 14 November 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 and the surcharge for late filing of the oath or declaration.

On 22 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) is required.

On 24 November 2006, applicant submitted the declaration, a three-month extension fee, and the present petition under 37 CFR 1.47(b) requesting acceptance of the application without the signature of the applicant and, a "Statement of Facts" to support the petition.

### 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.

Applicant's petition has satisfied elements (1), (3), (4) and (6).

With regard to item (2), the petition states that non-signing inventor Sea Gon Chun cannot be reached to execute the declaration in the instant application. The declaration of Mr. Jiwon Lim adequately demonstrates that a bona fide attempt was made to contact non-signing inventor Sea Gon Chun. Specifically, the letters sent by e-mail and certified mail and, the phone number search with Korea Info Services Corporation represent an adequate showing that a diligent effort has been made by the 37 CFR 1.47(b) applicant to contact non-signing inventor Sea Gon Chun. Hence, item (2) has been satisfied.

With regard to item (5), the present petition states that the inventor assigned the invention to Hyundai Syscomm, Inc. ("Hyundai") and that Hyundai subsequently assigned the invention to UTStarcomm Korea Limited ("UTStarcomm"). Petitioner has adequately demonstrated a transfer of title from Hyundai to UTStarcomm (see affidavit of Robert Irvine, Exhibit B, page 44/46). However, additional evidence concerning the purported assignment from the inventor to Hyundai is required. Specifically, the "Employee's Declaration of Invention" (see Irvine affidavit, Exhibit A) does not list any of the U.S. application number, the PCT application number, or the priority application number. Although the document lists Hyundai reference number HJ2002-12-0189 and the title of the invention, this information by itself does not adequately demonstrate that the present invention was the subject of the assignment.

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

### CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

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



Bryan Lin  
PCT Legal Examiner  
Office of PCT Legal Administration  
Telephone: (571) 272-3303  
Facsimile: (571) 273-0459



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



On 23 July 2007, the Office mailed a Decision dismissing the 24 November 2006 petition because applicants' did not provide sufficient evidence that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the instant application.

On 10 August 2007, applicants filed the instant renewed petition under 37 CFR 1.47(b).

### DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(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.

Applicants have previously satisfied elements (1), (2), (3), (4) and (6).

With regard to item (5), the present petition states that the inventor Sea Gon Chun has assigned the invention to Hyundai Syscomm, Inc. ("Hyundai") and that Hyundai subsequently assigned the invention to UTStarcomm Korea Limited ("UTStarcomm"). Petitioner has adequately demonstrated a transfer of title from Hyundai to UTStarcomm (see Exhibit B, page 44/46, filed 24 November 2006). Furthermore, the renewed petition includes an appropriate legal memorandum from attorney Joo-Young Kim who states that Hyundai would have title to the present invention instead of inventor Sea Gon Chun. Therefore, a chain of title from inventor Sea Gon Chun to UTStarcomm has been sufficiently established.

### CONCLUSION

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

This application has an International Filing Date of 23 July 2004 and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 24 November 2006.

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

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

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



Leonard Smith  
PCT Legal Examiner  
Office of PCT Legal Administration



Stefan Staicovici  
PCT Legal Examiner  
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Facsimile: (571) 273-0459



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Paper No.

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

MAILED

OCT 02 2009

In re Application of :  
Franciskovich et al. :  
Application No. 10/556,313 : ON APPLICATION FOR  
Filed: November 10, 2005 : PATENT TERM ADJUSTMENT  
Atty Docket No. X-13493 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705 filed April 21, 2009. Applicants submit that the correct determination of patent term adjustment is six hundred twelve (612) days, not four hundred ninety-one (491) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 1.702(a)(4) or applicant delay under 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

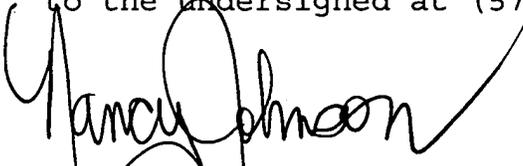
The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). No additional fees are required for such consideration.

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).

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

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

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



Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions



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UNITED STATES PATENT AND TRADEMARK OFFICE  
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PATENT DIVISION  
P.O. BOX 6288  
INDIANAPOLIS IN 46206-6288

**MAILED**

**JUN 14 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7,615,568 : DECISION ON REQUEST  
Franciskovich et al. : FOR  
Issue Date: November 10, 2009: RECONSIDERATION OF  
Application No. 10/556,313 : PATENT TERM ADJUSTMENT  
Filed: November 10, 2005 : and  
Atty Docket No. X-13493 : NOTICE OF INTENT TO ISSUE  
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 21, 2010, (and January 22, 2010), which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred fifty-six (856) days.

The petition under 37 CFR 1.183 is **GRANTED**.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **eight hundred thirty-six (836)** days.

In an international application, the 1.702(b) period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). The priority date of this application is May 30, 2003. As the requirements for early commencement were not met, the national stage commenced in this application on November 30, 2005. Thus, the over 3-year period is 345 days,

counting the number of days beginning on December 1, 2008 and ending on November 10, 2009, the date of issuance. See 1.703(b). Considering the period of overlap of 81 days, the patent term adjustment is increased by  $(345 - 81) 264$  days to 836 days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e).

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred thirty-six (836) days.

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

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

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 : 7,615,568 B2

DATED : **November 10, 2009**

**DRAFT**

INVENTOR(S) : Franciskovich 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 572 days

Delete the phrase "by 572 days" and insert – by 836 days--



LANG MICHENER LLP  
BCE PLACE  
SUITE 2500, 181 BAY STREET  
TORONTO ON M5J 2T7 CA CANADA

**COPY MAILED**

**APR 02 2007**

**OFFICE OF PETITIONS**

In re Application of	:	
Gary Haughton, et al.	:	
Application No. 10/556,320	:	DECISION ON PETITION
Filed: November 9, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 904/93287pus	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 4, 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 declaration statement signed by applicant. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 1723 for action on the merits commensurate with this decision.

*April M. Wise*  
April M. Wise  
Petitions Examiner  
Office of Petitions



01 AUG 2007

LANG MICHENER LLP  
BCE PLACE  
SUITE 2500, 181 BAY STREET  
TORONTO ON M5J 2T7 CANADA

In re Application of	:	
HAUGHTON, Gary et al.	:	
Application No.: 10/556,320	:	DECISION ON
PCT No.: PCT/CA2004/000704	:	
Int. Filing Date: 10 May 2004	:	PETITION
Priority Date: 09 May 2003	:	
Attorney Docket No.: 904/93287pus	:	UNDER 37 CFR 1.47(a)
For: LIQUID MIXING SYSTEM FOR	:	
CLOSED VESSELS	:	

This is a decision on applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 05 February 2007.

### **BACKGROUND**

On 10 May 2004, applicants filed international application PCT/CA2004/000704, which claimed a priority date of 09 May 2003. A copy of the international application was transmitted to the Office by the International Bureau on 18 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 09 November 2005.

On 09 November 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 executed by one inventor.

On 28 June 2006, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the application had a 35 USC 371(c)(1), (c)(2) and (c)(4) date of 09 November 2005.

On 05 February 2007, applicants submitted a petition under 37 CFR 1.47(a).

### **DISCUSSION**

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1) and (3) have been satisfied. The balance of the \$200 petition fee will be charged to deposit account no. 06-0916, as authorized. Applicants list Alexander Gris's address as R.R. #2, Proton Station, Ontario, Canada N0C 1L0.

Item (2) has not been satisfied. Applicants do not claim that they have ever presented the non-signing inventor with a complete copy of the application papers, including the declaration. A refusal to sign the declaration in the absence of presentation with a complete copy of the application papers is not sufficient. Further, the declaration that applicants sent to Mr. Gris was defective. Failure to sign a declaration listing the incorrect inventive entity is reasonable.

Item (4) has not been satisfied. An oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required to list the inventors and their citizenships. The international publication indicates that the inventors are Alexander Gris and Gary Haughton. The declaration executed by Mr. Haughton lists only Mr. Haughton as an inventor. The declaration sent to Mr. Gris lists only Mr. Gris as an inventor. An explanation from Mr. Haughton as to why he signed a declaration listing an incorrect inventive entity is required.

### CONCLUSION

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

The Notification of Acceptance (Form PCT/DO/EO/903) mailed 28 June 2006 is **VACATED**.

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

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



Erin P. Thomson  
Attorney Advisor  
PCT Legal Administration

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

03 DEC 2007



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LANG MICHENER LLP  
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SUITE 2500, 181 BAY STREET  
TORONTO ON M5J 2T7 CANADA

In re Application of	:	
HAUGHTON, Gary et al.	:	
Application No.: 10/556,320	:	DECISION ON
PCT No.: PCT/CA2004/000704	:	
Int. Filing Date: 10 May 2004	:	PETITION
Priority Date: 09 May 2003	:	
Attorney Docket No.: 904/93287pus	:	UNDER 37 CFR 1.47(a)
For: LIQUID MIXING SYSTEM FOR	:	
CLOSED VESSELS	:	

This is a decision on applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 01 October 2007.

**BACKGROUND**

On 01 August 2007, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicant's petition without prejudice.

On 01 October 2007, applicants filed this renewed petition under 37 CFR 1.47(a).

**DISCUSSION**

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1) and (3) were previously satisfied. Applicants list Alexander Gris's address as R.R. #2, Proton Station, Ontario, Canada N0C 1L0. Item (4) has now been satisfied.

Item (2) has now been satisfied. Applicants supplied a complete copy of the application papers including the declaration to the inventor by sending them to his home address and to his counsel. A signed declaration of the inventor has not been returned.

**CONCLUSION**

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

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing for continued national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **01 October 2007**.

/Erin P. Thomson/

Erin P. Thomson  
Attorney Advisor  
PCT Legal Administration

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

03 DEC 2007



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Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Alexander Gris  
R.R. #2  
Proton Station, ON N0C 1L0  
CANADA

In re Application of  
HAUGHTON, Gary et al.  
Application No.: 10/556,320  
PCT No.: PCT/CA2004/000704  
Int. Filing Date: 10 May 2004  
Priority Date: 09 May 2003  
Attorney Docket No.: 904/93287pus  
For: LIQUID MIXING SYSTEM FOR CLOSED VESSELS

Dear Mr. Gris:

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

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

/Erin P. Thomson/

Erin P. Thomson  
Attorney Advisor  
PCT Legal Administration

Telephone: 571-272-3292  
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TORONTO ON M5J 2T7 CANADA



13 MAR 2007

ALSTON & BIRD LLP  
BANK OF AMERICA PLAZA  
101 SOUTH TRYON STREET, SUITE 4000  
CHARLOTTE NC 28280-4000

In re Application of:  
GARCIA, Daniel, et al.  
U.S. Application No.: 10/556,324  
PCT No.: PCT/FR2004/001165  
International Filing Date: 13 May 2004  
Priority Date: 14 May 2003  
Atty Docket No.: 033339/303191  
For: METHOD OF DEGRADING TBP  
USING A PHOTOSYNTHETIC  
BACTERIAL STRAIN

DECISION ON PETITION  
(37 CFR 1.181)

This decision is issued in response to applicants' 21 August 2006 correspondence, treated herein in part as a petition under 37 CFR 1.181 to confirm the previous filing of an English translation of the international application. No petition fee is required.

**BACKGROUND**

On 13 May 2004, applicants filed international application PCT/FR2004/001165. The international application claimed a priority date of 14 May 2003, and it designated the United States. On 25 November 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., 14 November 2005.

On 10 November 2005, applicants filed a Transmittal Letter for entry into the national stage in the U.S. accompanied by, among other materials, payment of the basic national fee.

On 21 June 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of: (1) an English translation of the international application; (2) the processing fee for filing the translation later than thirty months after the priority date; (3) an oath or declaration in compliance with 37 CFR 1.497; (4) the surcharge for filing the oath or declaration later than thirty months after the priority date; and (5) sequence listing materials.

On 21 August 2006, applicants filed the response to the Notification Of Missing Requirements considered herein. The submission included sequence listing materials, payment of the required surcharge and processing fee, an executed declaration, an English translation of the Description and Claims, and an assertion that the English translation had been previously

submitted. As evidence of the prior submission of the English translation, applicants provided a copy of a return postcard that itemized 42 pages of specification and 10 sheets of drawings among the materials filed by applicants on 10 November 2005.

### DISCUSSION

The application file does not contain the English translation of the international application purportedly filed on 10 November 2005. Accordingly, applicants' 21 August 2006 submission is treated herein as a petition to confirm the previous filing of the English translation.

The transmittal letter filed 21 August 2006 states that the English translation attached to the 21 August 2006 submission is a copy of the translation previously filed with the application, as evidenced by the accompanying postcard. The return postcard itemizes 42 pages of specification (including claims and abstract), a total of 20 claims, and 10 sheets of drawings, and it bears a USPTO receipt stamp dated 10 November 2005. The 42 pages of specification itemized on the return postcard correspond to the 42 pages of description and claims contained in the English translation provided with the 21 August 2006 submission. However, the 21 August 2006 submission does not include a copy of the translated drawings purportedly filed on 21 August 2006, nor does the application file include any translated drawings. Based on the above, the 21 August 2006 submission is not sufficient to confirm the 10 November 2005 filing of a complete English translation of the international application as filed (including drawings), as required.

In addition, it is noted that the French/English declaration filed by applicants on 21 August 2006 cannot be accepted on the present record because applicants did not use the form for such a translation provided by the USPTO, and applicants have not provided a statement confirming that the English language on the declaration represents an accurate translation of the French language thereon (see 37 CFR 1.69). Applicants must provide a statement confirming the accuracy of the translation in the declaration before this declaration may be accepted in compliance with 37 CFR 1.497 and 1.69.

### CONCLUSION

The petition under 37 CFR 1.181 to confirm the 10 November 2005 filing of an English translation of the international application as filed is **DISMISSED** without prejudice for failure to provide copies of the translated drawings purportedly filed herein on 10 November 2005.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the mail date of this decision. Any such request should be entitled "Renewed Petition Under 37 CFR 1.181" and include copies of the translated drawings filed 10 November 2005 accompanied by a statement from the practitioner confirming that these are true copies of the drawings originally filed 10 November 2005, as evidenced by the return postcard.

Applicants must also provide a statement confirming the accuracy of the translation in the declaration filed 21 August 2006, in order to permit acceptance of the declaration under 37 CFR 1.497 and 1.69.

Failure to file a proper and timely response will result in abandonment.

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.



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



29 AUG 2007

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ALSTON & BIRD LLP  
BANK OF AMERICA PLAZA  
101 SOUTH TRYON STREET, SUITE 4000  
CHARLOTTE NC 28280-4000

In re Application of:	:	
GARCIA, Daniel, et al.	:	DECISION ON RENEWED
U.S. Application No.: 10/556,324	:	PETITION
PCT No.: PCT/FR2004/001165	:	(37 CFR 1.181)
International Filing Date: 13 May 2004	:	
Priority Date: 14 May 2003	:	
Atty Docket No.: 033339/303191	:	
For: METHOD OF DEGRADING TBP	:	
USING A PHOTOSYNTHETIC	:	
BACTERIAL STRAIN	:	

This decision is issued in response to applicants' "Renewed Petition Under 37 CFR 1.181" filed 11 May 2007. No petition fee is required.

**BACKGROUND**

The procedural background for the present application was set forth in the decision mailed herein on 13 March 2007. In that decision, applicants' petition under 37 CFR 1.181 to confirm the 10 November 2005 filing of an English translation of the international application was dismissed without prejudice for failure to satisfy the requirements of a grantable petition. Specifically, applicants had failed to provide copies of the translated drawings purportedly filed on 10 November 2005. In addition, the decision noted that a statement certifying the translation contained in the declaration filed 21 August 2006 was also required.

On 11 May 2007, applicants filed the renewed petition considered herein.

**DISCUSSION**

The renewed petition includes a copy of ten sheets of translated drawings and a statement from the practitioner confirming that these drawings are true copies of the translated drawings originally filed on 10 November 2005, as itemized in the stamped return postcard submitted with applicants' original petition.

The present submission, in combination with applicants' previous statements, the previously submitted copy of the English translation of the specification and claims, and the stamped return postcard which itemizes these materials and bears a USPTO receipt stamp dated 10 November 2005, are accepted as sufficient to confirm that the English translation of the international application (including drawings) was filed herein on 10 November 2005, prior to the expiration of thirty months from the priority date. A refund of the \$130 processing fee

charged based on applicants' purported failure to timely file the English translation is therefore appropriate.

The renewed petition also includes a statement confirming that the English language on the declaration filed 21 August 2006 represents an accurate translation of the French language thereon, as required.

**CONCLUSION**

The renewed petition under 37 CFR 1.181 to confirm the 10 November 2005 filing of an English translation of the international application is **GRANTED**.

Applicants will be credited with a refund of the \$130 processing fee charged based on applicants' purported failure to timely file the English translation of the international application.

In view of the statement confirming the English translation contained thereon, the declaration filed 21 August 2006 is accepted in compliance with 37 CFR 1.497.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 21 August 2006.



Richard M. Ross  
Attorney Advisor  
Office of PCT Legal Administration  
Telephone: (571) 272-3296  
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13 JAN 2009

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UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450  
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Martin Moynihan  
PRTSI, Inc.  
P.O. Box 16446  
Arlington, VA 22215

In re Application of	:	
KRIBUS et al	:	DECISION ON
Application No.: 10/556,341	:	
PCT No.: PCT/IL2004/000406	:	
Int. Filing Date: 12 May 2004	:	PETITION UNDER
Priority Date: 12 May 2003	:	
Attorney Docket No.: 30903	:	
For: SMALL-SCALE, CONCENTRATING, SOLAR	:	
CHP SYSTEM	:	37 CFR 1.181

This decision is in response to the "PETITION UNDER 37 CFR 1.181(A) TO WITHDRAW HOLDING OF ABANDONMENT," filed on 29 September 2008. Applicants have submitted, inter alia, a copy of the 17 April 2007 PTO stamped itemized postcard receipt. The stamped postcard lists the following item: Response to Missing Requirements of March 26, 2007.

**BACKGROUND**

On 10 November 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 no executed Declaration or Oath was provided with the transmittal letter at such time.

On 26 March 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by the International application number and international filing date. . . 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 above must be submitted within two (2) months from the date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 13 August 2008, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) which indicated that the application is abandoned because applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905) mailed 03/26/2007 within the time period set therein.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 13 August 2008, applicants submitted on 29 September 2008 the instant petition requesting withdrawal of the Notice of Abandonment. In support of the request, applicants have provided a copy of the stamped receipt card acknowledging a receipt date of 17 April 2007, within the time period of response for the response to the notice of missing requirements of March 26, 2007.

### DISCUSSION

Applicants' present petition accompanied by a copy of the following documents, filed purportedly with the USPTO as indicated in the stamped postcard:

- (1) Response to File Missing Requirements of March 26, 2007

The postcard lists the above items and bears a USPTO date of stamp as April 17, 2007.

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that the Response to Missing Requirements of March 26, 2007 including the executed Declaration was deposited with the U.S. Patent and Trademark Office on 17 April 2007, and petitioner has stated that these copies are true copies of the original filed copy.

Accordingly, the date of receipt for the Declaration is 17 April 2007, which is considered timely. Accordingly, the instant application has been improperly abandoned.

### DECISION

The petition under 37 CFR 1.181 is GRANTED. The Notification of Abandonment (PCT/DO/EO/909) mailed 13 August 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 17 April 2007.



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



15 MAY 2008

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

MCKENNA LONG & ALDRIDGE LLP  
1900 K STREET, NW  
WASHINGTON DC 20006

In re Application of :  
JEONG et al. :  
Serial No.: 10/556,343 :  
PCT No.: PCT/KR05/02326 :  
Int. Filing Date: 19 July 2005 : DECISION ON PETITION  
Priority Date: 20 July 2004 :  
Attorney's Docket No.: 9988.262.00 : UNDER 37 CFR 1.182  
For: DRYING RACK IN DRYER :

This decision is in response to applicant's "Petition to Withdraw Holding of Abandonment Based on Evidence that a Reply Was Timely Filed" filed 04 March 2008 in the United States Patent and Trademark Office (USPTO) in the above-captioned application and as explained below, will be treated as a petition under 37 CFR 1.182.

On 10 November 2005, applicant filed the U.S. national stage application for international application PCT/KR05/02326, under 35 U.S.C. 371. These papers were assigned U.S. serial number 10/556,343.

On 02 October 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), was required.

On 31 January 2008, a Notification of Abandonment was mailed to applicant indicating that applicant failed to respond the Notification of Missing Requirements.

On 04 March 2008, applicant filed the instant petition, accompanied by a copy of the declaration and the itemized postcard receipt with USPTO date-stamp 07 February 2007, indicating receipt of, *inter alia*, a declaration executed by the inventors.

### DISCUSSION

Applicant requests withdrawal of the holding of abandonment, indicating that a response to the Notification of Missing Requirements, was mailed on 07 February 2007.

A review of the application papers filed on 07 February 2007 reveals that the transmittal letter bore an incorrect U.S. application number (11/556,343). The accompanying papers referenced the correct U.S. application number (10/556,343). Because applicant indicated an incorrect application number on the transmittal letter, the papers filed on 07 February 2007 were placed in the file indicated by the application number on the transmittal letter. However, since applicant did indicate the correct application number on some of the papers filed, the application is not abandoned and a petition under 37 CFR 1.182 is the proper petition to correct an incorrect number on a filing. The petition filed on 04 March 2008 will be treated as a petition under 37 CFR 1.182 to correct the national stage application number in the application papers to 10/556,343.

Applicant originally filed a response to the Notification of Missing Requirements on 07 February 2007, which incorrectly referenced 11/556,343. The declaration was filed referencing 10/556,343 and the accompanying papers referenced 10/566,343. The \$400 petition fee has been charged to applicant's deposit account per his authorization to correct the incorrect serial number. It is noted that a 3 month extension of time is required as the response to the Notification of Missing Requirements was mailed three months after the 2 month period set forth in the Notification. This extension of time will be charged to applicant's deposit account per their authorization.

A review of the declaration reveals that the declaration identifies and is executed by each inventor, and states the residency, citizenship and mailing address of each inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497(a) and (b).

For the reasons set forth above, the 31 January 2008 Notification of Abandonment is hereby **VACATED**.

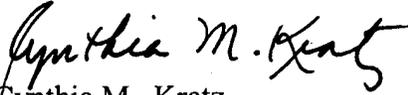
### CONCLUSION

Applicant's petition under 37 CFR 1.182 to correct the U.S. National stage application no. to 10/566,343 on the application papers filed on 07 February 2008 is **GRANTED**. The papers will be moved to this application.

The 31 January 2008 Notification of Abandonment is hereby **VACATED**.

The copy of the declaration originally submitted on 07 February 2007 and resubmitted on 04 March 2008 is acceptable and meets the requirements of 37 CFR 1.497(a) and (b). The surcharge of \$130 will be charged to applicant's deposit account.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 07 February 2007.



Cynthia M. Kratz  
Attorney Advisor  
Office of PCT Legal Administration

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UNITED STATES PATENT AND TRADEMARK OFFICE

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**FOLEY AND LARDNER LLP  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007**

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**DEC 17 2009**

**OFFICE OF PETITIONS**

In re Application of :  
Max Peter SEILER :  
Application No. 10/556,356 :  
Filed: August 11, 2006 :  
Attorney Docket No. 093286-0116 :

**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 15, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Rouget F. Henschel and the attorneys associated with Customer No. 22428, has been revoked by the assignee of the patent application on November 20, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

/Diane Goodwyn/  
Petitions Examiner  
Office of Petitions

17 APR 2008



UNITED STATES PATENT AND TRADEMARK OFFICE

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.  
530 VIRGINIA ROAD  
P.O. BOX 9133  
CONCORD MA 01742-9133

In re Application of	:	
JESPERS, Laurent S. et al.	:	
Application No.: 10/556,360	:	DECISION ON
PCT No.: PCT/GB2004/002102	:	
Int. Filing Date: 14 May 2004	:	PETITION
Priority Date: 14 May 2003	:	
Attorney Docket No.: 3440.1001-011	:	UNDER 37 CFR 1.181
For: PROCESS FOR RECOVERING	:	
POLYPEPTIDES THAT UNFOLD	:	
REVERSIBLY FROM A	:	
POLYPEPTIDE REPERTOIRE	:	

This decision is in response to applicant's Petition Under 37 CFR 1.181, filed on 02 February 2008.

### **BACKGROUND**

On 10 January 2007, the Office mailed Notification of Missing Requirements (PCT/DO/EO/905), indicating that an oath or declaration and the surcharge for late filing of the search fee, examination fee or oath or declaration were required.

On 03 July 2007, applicants supplied a declaration of the inventors, the surcharge and the fee for a four month extension of time.

On 29 January 2008, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification mailed 10 January 2007.

On 02 February 2008, applicants filed this petition to withdraw the holding of abandonment.

### **DISCUSSION**

The petition to withdraw the holding of abandonment is granted. The Notification of Abandonment mailed 29 January 2008, issued in error and has been withdrawn.

However, a review of the declaration of the inventors reveals non-initialed, non-dated alterations made in ink to the information of Mr. Famm. MPEP 605.04(a). A new oath or declaration from Mr. Famm is required.

**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 29 January 2008 is **VACATED**.

A proper response is required within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available. Failure to timely reply will result in the abandonment of this application.

Any further correspondence with respect to this matter 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

2 8 AUG 2008



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MCDERMOTT WILL & EMERY LLP  
28 STATE STREET  
BOSTON MA 02109-1775

In re Application of	:	
JESPERS, Laurent S. et al.	:	
Application No.: 10/556,360	:	
PCT No.: PCT/GB2004/002102	:	DECISION ON
Int. Filing Date: 14 May 2004	:	
Priority Date: 14 May 2003	:	PETITION
Attorney Docket No.: 3440.1001-011	:	
For: PROCESS FOR RECOVERING	:	UNDER 37 CFR 1.181
POLYPEPTIDES THAT UNFOLD	:	
REVERSIBLY FROM A	:	
POLYPEPTIDE REPERTOIRE	:	

This decision is in response to applicant's submission of a declaration of the inventors, filed on 18 June 2008.

#### **BACKGROUND**

On 17 April 2008, the Office mailed Decision On Petition Under 37 CFR 1.181, granting applicant's petition to withdraw the holding of abandonment, but requiring a new oath or declaration of the inventors.

On 18 June 2008, applicants submitted a new declaration of the inventors.

#### **DISCUSSION**

The new declaration of Mr. Famm, in combination with the declarations supplied on 02 February 2008, satisfy the requirements of 37 CFR 1.497(a)-(b).

#### **CONCLUSION**

This application is being referred to the National Stage Processing Branch for further action consistent with this decision. The application has a 35 USC 371(c)(1), (c)(2) and (c)(4) date of 18 June 2008.

/Erin P. Thomson/

Erin P. Thomson  
Attorney Advisor  
PCT Legal Administration

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.  
1425 K STREET, N.W.  
SUITE 800  
WASHINGTON, DC 20005

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**JUL 08 2009**

**OFFICE OF PETITIONS**

In re Patent of Hambitzer et al.	:	
Patent No. 7,488,421	:	DECISION ON APPLICATION
Issue Date: February 10, 2009	:	FOR RECONSIDERATION OF
Application No. 10/556,363	:	PATENT TERM ADJUSTMENT
Filing Date: November 10, 2005	:	
Attorney Docket No. 2945-175	:	

This is in response to the "Petition to Correct Patent Term Adjustment" filed March 26, 2009. Patentees request that the determination of patent term adjustment indicated on the patent be corrected from 441 days to 440 days.

The request for reconsideration of the patent term adjustment indicated on the patent is **granted to extent indicated herein**.

Any response to this decision must be submitted within the longer of ONE (1) MONTH or THIRTY (30) DAYS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. Any response should include a cover letter entitled "Renewed Request under 37 CFR 1.705(d)."

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 two hundred sixty-three (263) days.

On October 10, 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 the patent term adjustment to date is 441 days. On February 10, 2009, the application matured into United States Patent No. 7,488,421 with a revised patent term adjustment of 441 days. This request for reconsideration was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment. Patentees contend they are entitled to one day less of patent term adjustment. Patentees state the total days of patent term adjustment should be decreased by 93 days due to the Information Disclosure Statement ("IDS") filed October 1, 2008, and increased by 92 days due to the Office's failure to issue the patent within three years of the filing date. The application was filed November 10, 2005, and the application issued as a patent 3 years and 92 days later on February 10, 2009.

Patentees contends the total patent term adjustment should be 440 days, which is the sum of the 92 days of delay in the issuance of the patent (“Three Year Delay”)<sup>1</sup> and 443 days of delay due to other types of Office delay (“Examination Delay”)<sup>2</sup> reduced by 0 days of overlap and 95 days of applicant delay.

The first issue to be resolved is whether or not the total days of applicant delay should be increased by 93 days.

Per 37 CFR 1.704(c)(8), circumstances that will result in a reduction in the period of adjustment include:

Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

The Office mailed a non-final Office action on March 28, 2008. A reply to the non-final Office action was filed June 30, 2008.<sup>3</sup> An IDS was filed October 1, 2008, 93 days after the reply filed June 30, 2008. Therefore, a 93-day increase in applicant delay is appropriate unless the exception set forth in 37 CFR 1.704(d) is applicable.

37 CFR 1.704(d) states,

A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

In this case, the IDS did not state each item of information was cited in a communication from a foreign patent office in a counterpart application or that the communication was not received by

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<sup>1</sup> The period of adjustment under 37 C.F.R. § 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. § 1.111(a) or the national stage commenced under 35 U.S.C. § 371(b) or (f) in an international application and ending on the date the patent was issued. The period of adjustment does not include any time period falling under 35 U.S.C. § 154(b)(1)(B)(i)-(iii).

<sup>2</sup> “Examination Delay,” as used in this decision, encompasses delay under 35 U.S.C. §§ 154(b)(1)(A) and (B).

<sup>3</sup> Patentees do not dispute the 2 days of delay resulting from patentees filing a reply to a non-final Office action on June 30, 2008.

any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. Therefore, the exception set forth in 37 CFR 1.704(d) is inapplicable in the instant situation and a period of reduction of 93 days is warranted and will be entered.

The second issue to be resolved is the number of days of overlap.

The total amount of adjustment one can receive as a result of delay under 35 U.S.C. § 154(b)(1) is limited by 35 U.S.C. § 154(b)(2)(A) which states,

To the extent that time periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (92 days) and the period of Examination Delay (443 days) to the extent that these periods of delay are not overlapping. However, patentees assert the number of days of overlap is 0 days. Patentees cite *Wyeth v. Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), and appear to argue days of overlap only include days of Examination Delay that take place more than three years after the filing date of the application. The Office contends the proper amount of the overlap is 92 days.

The Office's position regarding the proper interpretation of 35 U.S.C. § 154(b)(2)(A) is as follows:

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period 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 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).<sup>4</sup>

In this case, the relevant time period when determining if periods of delay "overlap" is the time period from the filing date of the application, November 10, 2005, to the date of issuance of the patent, February 10, 2009.<sup>5</sup> The entire Examination Delay of 443 days took place within the relevant time period. In other words, all of the Three Year Delay of 92 days overlaps with the Examination delay of 443 days.

Office delay resulted in the patent issuing 443 days later, not 443 days + 92 days later. Accordingly, 443 days of patent term adjustment (not 443 days + 92 days) was properly entered for Office delay since the period of delay of 92 days attributable to the delay in the issuance of

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<sup>4</sup> *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) (citing *Revision of Patent Term Extension and Patent Term Adjustment Provisions: Final Rule*, 69 Fed. Reg. 21704, 21706 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100, 101 (May 18, 2004)).

<sup>5</sup> The instant case does not contain any time periods falling under 35 U.S.C. § 154(b)(1)(B)(i)-(iii).

the patent overlaps with the adjustment of 443 days attributable to grounds specified in 37 C.F.R. § 1.702(a)(1).

Patentees cite *Wyeth v. Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008) and the Office has considered the *Wyeth* decision. However, the Office is not persuaded that the Office's current and long standing interpretation of the statute is incorrect.

The Office's interpretation of 35 U.S.C. § 154(b)(2)(A) is consistent with the purpose of the statute. The language in 35 U.S.C. § 154(b)(2)(A) is the result of the passage of the American Inventors Protection Act, Pub. L. No. 106-113, §§ 4401, 113 Stat. 1501, 1501A-552 (1999). A section-by-section analysis of the American Inventors Protection Act, published in the Congressional Record at the request of Senator Lott, elaborated this limitation:

[T]otal adjustments granted for restorations under (b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order \* \* \* and administrative delay under section 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed.<sup>6</sup>

The Office's interpretation of 35 U.S.C. § 154(b)(2)(A) ensures the term is extended only for the actual number of days that the issuance of the patent was delayed.

Patentee has not shown the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) is incorrect.

For the reasons previously discussed, the Office acted properly when it did not increase the patent term adjustment as a result of the Office taking in excess of 3 years to issue the patent.

The patent term adjustment in this case is the 92 days of Three Year Delay + 443 days of Examination Delay - 92 days of overlap - 95 days of applicant delay. In other words, the patent term adjustment is 348 days.

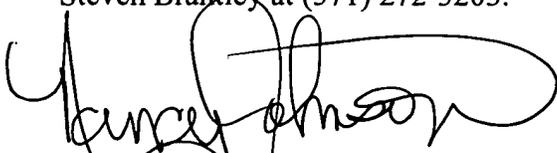
The request filed by patentees ultimately sought for the patent term adjustment to be reduced by one day. In essence, the request sought to inform the Office it had erroneously granted patentees too many days of patent term adjustment. Therefore, the Office has not assessed the \$200 fee under 37 CFR 1.18(e). The Office thanks patentees for their good faith and candor in bringing this matter to the attention of Office.

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 three hundred and forty-eight (**348**) days.

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<sup>6</sup> 145 Cong. Rec. S14,708, S14,718 (Nov. 17, 1999).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with a large loop at the end.

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 NO. : 7,488,421 B2  
ISSUE DATE : February 10, 2009  
INVENTOR(S) : Hambitzer et al..

**DRAFT**

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 441 days.

Delete the phrase "by 441 days" and insert - by 348 days--



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NEW YORK NY 10036

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**MAR 02 2009**

**OFFICE OF PETITIONS**

In re Application of :  
Shaun Ewan Mepham and Robert :  
John Barnes :  
Application No. 10/556,371 : DECISION ON PETITION  
Filed: July 11, 2006 : PURSUANT TO 37 C.F.R.  
Attorney Docket Number: KILBU : § 1.47(A)  
P-85/500728.20105 :  
Title: CLUTCHES :

This is in response to the petition pursuant to 37 C.F.R. § 1.47(a), filed January 22, 2009.

This petition pursuant to 37 C.F.R. § 1.47(a) is **GRANTED**.

The "Change of Attorney's Address & Customer Number," filed on August 15, 2008, has been entered and made of record.<sup>1</sup>

On July 11, 2006, the application was filed, identifying Shaun Ewan Mepham and Robert John Barnes as joint inventors. The application was not deposited with a fully executed declaration. On July 11, 2006, a fully executed declaration was received, which contains non-dated and non-initialed alterations. On October 22, 2008, a Notice of Allowance and Issue Fee Due was

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<sup>1</sup> It is noted that a similar request that has been signed by an attorney who is not of record has been concurrently submitted with this petition.

mailed, which indicated, *inter alia*, that a newly executed oath or declaration would need to be submitted.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

- (1) the petition fee of \$200;
- (2) a surcharge of either \$65 or \$130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(e);
- (3) a statement of the last known address of the non-signing inventor;
- (4) either
  - a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  - b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;
- (5) a declaration which complies with 37 C.F.R. § 1.63.

With this petition, Petitioner has submitted, *inter alia*, an acceptable declaration that has been executed by Mr. Mephram, the last known address of the non-signing inventor, and proof that he was provided with a complete copy of the application<sup>2</sup> and that an executed copy of the declaration has not been obtained.<sup>3</sup>

The petition fee will be charged to Petitioner's Deposit Account in due course, as authorized in the concurrently submitted issue fee transmittal form.

It is noted that the fee that is associated with the late submission of an oath or declaration was received on July 11, 2006.

Each of the requirements of 37 C.F.R. § 1.47(a) has been satisfied.

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<sup>2</sup> Petition, numbered paragraph 2. See also Exhibits A and B. The latter indicates that the post office did not return the package as undeliverable. The package was held at the post office, and was not collected by the intended recipient.

<sup>3</sup> Petition, numbered paragraph 7.

This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47, this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.<sup>4</sup> All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/  
Paul Shanoski  
Senior Attorney  
Office of Petitions

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<sup>4</sup> Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.



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THE WEBB LAW FIRM, P.C.  
700 KOPPERS BUILDING  
436 SEVENTH AVENUE  
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

<b>Applicant</b>	: Mitsuaki Kumazawa	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7625635	: RECALCULATION of PATENT
<b>Issue Date</b>	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/556,375	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 11/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **639** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



01 DEC 2006

MCKENNA LONG & ALDRIDGE LLP  
1900 K STREET, NW  
WASHINGTON, DC 20006

In re Application of CHOI	:	
U.S. Application No.: 10/556390	:	
PCT Application No.: PCT/KR2005/002297	:	
Int. Filing Date: 18 July 2005	:	COMMUNICATION
Priority Date Claimed: 30 August 2004	:	
Attorney Docket No.: 9988.254.00	:	
For: DEVICE AND METHOD FOR WASHING	:	
MACHINE	:	

This application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

**BACKGROUND**

On 18 July 2005, applicant filed international application PCT/KR2005/002297, which claimed priority of an earlier Korea application filed 30 August 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 09 March 2006. The thirty-month period for paying the basic national fee in the United States expired on 28 February 2007.

On 10 November 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 copy of the international application.

On 08 September 2006, the DO/EO/US mailed a Notice of Insufficient Basic National Fee Required and/or Missing Copy of International Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form.PCT/DO/EO/912).

**DISCUSSION**

A review of the application file reveals that a copy of the international application, including a copy of the Request (Form PCT/RO/101), and the basic national fee were filed on 10 November 2005. Accordingly, Form PCT/DO/EO/912 was sent in error.

**CONCLUSION**

For the reasons above, the Notice of Insufficient Basic National Fee Required and/or Missing Copy of International Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/912) mailed 08 September 2006 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including 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 Lin*

Bryan Lin  
PCT Legal Examiner  
PCT Legal Office

Telephone: 571-272-3303  
Facsimile: 571-273-0459



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**OFFICE OF PETITIONS**

Applicant: Kondoh et al.

Appl. No.: 10/556,403

International Filing Date: May 10, 2004

Title: ORGANIC PHOTOCONDUCTIVE MATERIAL AND, USING THE SAME,  
ELECTROPHOTOGRAPHIC PHOTORECEPTOR AND IMAGE FORMING DEVICE

Attorney Docket No.: 1275-63

Pub. No.: 2006/0204871 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 24, 2006, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the title of the application is incorrect.

37 CFR 1.221 (b) is applicable “only **when the Office makes a material mistake which is apparent from Office records**.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable.” A material mistake must affect the public’s ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.<sup>1</sup>

The title in the publication is not an error of the Office. The title in the published application is a direct republication of the WIPO application publication WO 2004/099880 A1 for PCT/JP2004/0006590. The title of the invention has not been amended by a preliminary amendment or an application data sheet (ADS), thus it was correctly printed..

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

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<sup>1</sup>Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

Applicants' request for a corrected patent application publication on October 24, 2006, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

Furthermore, applicant is advised that a change in title in the instant case is not considered a material error. The interpretation or understanding of the application to one of ordinary skill in the art would not be affected by the title. See MPEP 1130.

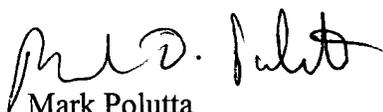
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



Mark Polutta  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of the Deputy Commissioner  
for Patent Examination Policy



# UNITED STATES PATENT AND TRADEMARK OFFICE

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Ballard Spahr LLP  
SUITE 1000  
999 PEACHTREE STREET  
ATLANTA, GA 30309-3915

Mail Date: 06/07/2010

**Applicant** : David Maxwell Johnston : DECISION ON REQUEST FOR  
**Patent Number** : 7650750 : RECALCULATION OF PATENT  
**Issue Date** : 01/26/2010 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/556,412 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 01/23/2006 : ISSUE CERTIFICATE OF CORRECTION  
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **895** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



# UNITED STATES PATENT AND TRADEMARK OFFICE

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William S. Frommer  
Frommer Lawrence & Haug  
745 Fifth Avenue  
New York, NY 10151

Mail Date: 04/21/2010

<b>Applicant</b>	: Shojiro Shibata	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7606124	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/556,416	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 08/07/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **328** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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**SUGHRUE MION, PLLC**  
**2100 PENNSYLVANIA AVENUE, N.W.**  
**SUIT 800**  
**WASHINGTON DC 20037**

**COPY MAILED**

**FEB 17 2010**

In re Application of :  
Fabien Poulard :  
Application No. 10/556,432 : **DECISION ON PETITION**  
Filed: November 9, 2005 :  
Attorney Docket No. Q91404 :

This is a decision on the petition, filed November 19, 2009, under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The petition under 37 CFR 1.181(a) is **GRANTED**.

The application was held abandoned for failure to timely reply to the final rejection mailed January 21, 2009. A Notice of Appeal was filed on May 20, 2009. A Notice of Abandonment was mailed on November 16, 2009.

The petitioner states that, "In the present application, the filing of the Notice of Appeal, along with the Petition for Extension of Time tolled the time period for reply set forth in the final Office Action date January 21, 2009. Further, the original time period for filing the Appeal Brief was 2 months from the filing of the notice of appeal (July 20, 2009) which is extendable by another five months (December 20, 2009). Accordingly, as the Notice of Abandonment was issued prior to the last extendable time period, the Notice of Abandonment was issued in error."

A review of the Office records show receipt of an Appeal Brief along with an extension of time for four months on November 19, 2009, which would make the response timely.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3754 for appropriate action by the Examiner in the normal course of business on the reply received November 19 2009.

/KOC/

Karen Creasy  
Petitions Examiner  
Office of Petitions

08 AUG 2006



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Duane Morris LLP  
1667 K Street, NW  
Suite 700  
Washington, D.C. 20006-1608

In re Application of	:	
MAES et al.	:	
U.S. Application No.: 10/556,492	:	DECISION ON PETITION
PCT No.: PCT/CA03/01986	:	UNDER 37 CFR 1.137(a)
Int. Filing Date: 19 December 2003	:	
Priority Date: 24 December 2002	:	
Attorney Docket No.: 57006US	:	
For: MODIFIED RELEASE FORMULATIONS	:	
OF SELECTIVE SEROTONIN	:	
RE-UPTAKE INHIBITORS	:	

This decision is issued in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unavoidably under 37 CFR 1.137(a)" filed 14 November 2005.

**BACKGROUND**

On 19 December 2003, applicant filed international application PCT/CA03/01986 which claimed a priority date of 24 December 2002. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 24 June 2005.

On 14 November 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: the basic national fee, a copy of the international application; and the present petition under 37 CFR 1.137(a).

**DISCUSSION**

A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the requisite petition fee; (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 37 CFR 1.137(c). Applicant has satisfied Item (1), (2) and (4).

With regard to Item (3), Section 711.03(c) of the Manual of Patent Examining Procedure states: "A delay resulting from an error (e.g., a docketing error) on the part of an

employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (A) the error was the cause of the delay at issue; (B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and (C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care."

Petitioner states that the above-identified application became abandoned as to the United States because of a docketing error. However, petitioner has not provided sufficient evidence that: (1) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance and (2) that the employee(s) was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

In summary, the actions taken in the prosecution of this case do not reflect unavoidable delay. Specifically, unavoidable delay is present only where petitioner and those acting for petitioner take all actions necessary to continue the prosecution of an application, but through the intervention of unforeseen circumstances, a required action is not timely taken. The actions and circumstances described in this petition do not reflect the "care or diligence that is generally used and observed by prudent and careful men in relation to their most important business." Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Therefore, applicant has not satisfied item (3) above.

Since applicant has not met the requirements for revival of an application under 37 CFR 1.137(a), revival under this section would not be proper.

### **RECOMMENDATION**

Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in 37 CFR 1.137. This recommendation to file a petition under 37 CFR 1.137(b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

### **CONCLUSION**

The petition under 37 CFR 1.137(a) is **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)." Extensions of time may be obtained under 37 CFR 1.136(a).



Anthony Smith  
Attorney-Advisor  
Office of PCT Legal Administration  
Tel: (571) 272-3298  
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24 OCT 2006



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Intellectual Property Department  
Hunton & Williams, LLP  
1900 K Street, NW, Suite 1200  
Washington, D.C. 20006-1109

In re Application of MAES et al.	:	
U.S. Application No.: 10/556,492	:	
PCT No.: PCT/CA03/01986	:	
Int. Filing Date: 19 December 2003	:	DECISION ON PETITION
Priority Date: 24 December 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 57006US	:	
For: MODIFIED RELEASE FORMULATIONS	:	
OF SELECTIVE SEROTONIN	:	
RE-UPTAKE INHIBITORS	:	

The petition to revive under 37 CFR 1.137(b) filed 07 September 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the 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.

The file does not indicate a change of correspondence has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

10/23/2006 SBASH/IR 00000002 500206 10556492  
Sale Ref: 00000002 DA#: 500206 10556492  
01 FC:1453 1500.00 DA

Anthony Smith  
Attorney-Advisor  
Office of PCT Legal Administration  
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16 AUG 2007

Intellectual Property Department  
Hunton & Williams, LLP  
1900 K Street, NW, Suite 1200  
Washington, D.C. 20006-1109

In re Application of MAES et al.  
U.S. Application No.: 10/556,492 :  
PCT No.: PCT/CA03/01986 :  
Int. Filing Date: 19 December 2003 : DECISION ON PETITION  
Priority Date: 24 December 2002 : UNDER 37 CFR 1.47(a)  
Attorney Docket No.: 57006US :  
For: MODIFIED RELEASE FORMULATIONS :  
OF SELECTIVE SEROTONIN :  
RE-UP TAKE INHIBITORS :

This decision is issued in response to applicants' "Petition under 37 CFR 1.47(a)" filed 06 June 2007 to accept the application without the signature of joint-inventor, Goutam Muhuri.

### BACKGROUND

On 19 December 2003, applicants filed international application PCT/CA03/01986, which claimed priority of an earlier application filed 24 December 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 21 August 2005.

On 14 November 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; a preliminary amendment; and a petition under 37 CFR 1.137(a). Applicants' petition to revive under 37 CFR 1.137(a) was dismissed without prejudice in a Decision on Petition dated 08 August 2006.

On 07 September 2006, applicant filed a petition to revive under 37 CFR 1.137(b). Applicants' petition to revive under 37 CFR 1.137(b) was granted in a Decision on Petition dated 24 October 2006.

On 12 December 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 06 June 2007, applicants filed the present petition under 37 CFR 1.47(a).

### DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor.

Applicants here have submitted the appropriate petition fee. Item (1) is therefore satisfied.

Regarding item (2), applicants assert that the nonsigning inventor cannot be located after diligent effort. The petition includes a declaration of Lisa McFarland, and exhibits thereto, detailing the efforts made to locate and contact the nonsigning inventor, including mailings to multiple addresses, efforts to reach the inventor at multiple telephone numbers, and an internet search conducted to identify the most current address and telephone number for the nonsigning inventor. These materials provide an adequate showing that the nonsigning inventor cannot be reached or located after diligent effort. Item (2) is therefore satisfied.

Regarding item (3), applicants have provided the last known address of the nonsigning inventor. Accordingly, item (3) is therefore satisfied.

Regarding item (4), section 409.03(a) of the Manual of Patent Examining Procedure ("MPEP") states that:

An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed declarations executed by one of the two inventors and including an unsigned signature box identifying the nonsigning inventor (Goutam Muhuri). This declaration is treated as having been executed by the available inventors on their behalf and on behalf of the nonsigning inventor. Item (4) is therefore satisfied.

For the reasons stated above, it is appropriate to accept the application without the signature of Goutam Muhuri under 37 CFR 1.47(a) at this time.

### CONCLUSION

The petition under 37 CFR 1.47(a) is GRANTED.

The application will be given an international filing date of 19 December 2003 under 35 U.S.C. 363, and a date of 06 June 2007 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(c) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.



Anthony Smith  
Attorney-Advisor  
Office of PCT Legal Administration  
Tel: (571) 272-3298  
Fax: (571) 273-0459



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YOUNG & THOMPSON  
209 Madison Street  
Suite 500  
Alexandria, VA 22314

Mail Date: 05/14/2010

**Applicant** : Rolf Ericson : DECISION ON REQUEST FOR  
**Patent Number** : 7618023 : RECALCULATION of PATENT  
**Issue Date** : 11/17/2009 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/556,500 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 06/16/2006 : ISSUE CERTIFICATE OF CORRECTION  
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **704** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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MILANO 20123 IT ITALY

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JUL 1 8 2008

**OFFICE OF PETITIONS**

In re Application of :  
Enzo Pinelli :  
Application No. 10/556,506 : **DECISION ON PETITION**  
Filed: November 14, 2005 :  
Atty Docket No. 41021/AJ/LP :

This is a decision on the petition filed June 11, 2008, which is treated under 37 C.F.R. § 1.181.

The petition is **DISMISSED**.

This application became abandoned on April 29, 2008 after the applicant failed to pay the issue fee in response to the Notice of Allowance mailed January 28, 2008. Accordingly, a Notice of Abandonment was mailed May 22, 2008.

Petitioner argues that the issue fee was paid with the issue fee transmittal sent via telefax on April 7, 2008. The evidence presented with the petition includes a certificate of transmission pursuant to 37 CFR 1.8 and a copy of a transmission report that is not a USPTO Auto-Reply, which is not sufficient without the USPTO Auto-Reply.

Thus, no evidence of timely payment of the issue fee. Under the circumstances therefore, the holding of abandonment is proper and will not be withdrawn.

Petitioner or petitioner's representative may wish to file a petition to revive under 37 CFR 1.137(a) or (b). Section 1.137(b) now provides 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 pursuant to 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 an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

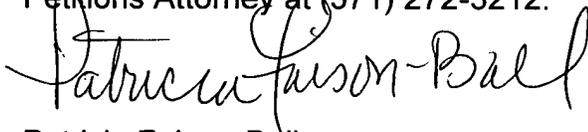
The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:        Mail Stop Petition  
                  Commissioner for Patents  
                  P.O. Box 1450  
                  Alexandria, VA 22313-1450

By FAX:        (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions



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VIA MERAUGLI 16  
MILANO 20123 IT ITALY

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AUG 28 2008

In re Application of :  
Enzo Pinelli :  
Application No. 10/556,506 : DECISION ON PETITION  
Filed: November 14, 2005 :  
Atty Docket No. 41021/AJ/LP :

This is a decision on the request for reconsideration filed July 30, 2008, which is treated under 37 C.F.R. § 1.181.

The petition is **DISMISSED**.

This application became abandoned on April 29, 2008 after the applicant failed to pay the issue fee in response to the Notice of Allowance mailed January 28, 2008. Accordingly, a Notice of Abandonment was mailed May 22, 2008. In a petition filed June 11, 2008, petitioner argued that the issue fee was paid with the issue fee transmittal sent via telefax on April 7, 2008. The evidence presented with the petition included a certificate of transmission pursuant to 37 CFR 1.8 and a copy of a transmission report. The transmission report was not a USPTO Auto-Reply.

The petition was dismissed in a decision mailed July 18, 2008 because while the certificate of transmission was filed with the petition, it was not filed with a USPTO Auto-Reply to show proof of receipt, which is required.

Comes now petitioner with the instant request for reconsideration but without any additional evidence and without the required USPTO Auto-Reply. The U.S. Patent and Trademark Office (Office) file is the official record of papers filed in this application. A review thereof does not reveal that the issue fee was received on April 7, 2008 and since the proof submitted does not substantiate a finding that it was received the holding of abandonment will not be withdrawn and the notice of abandonment will not be vacated.

Petitioner or petitioner's representative may wish to file a petition to revive under 37 CFR 1.137(a) or (b). Section 1.137(b) now provides 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 pursuant to 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 an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should 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 delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:        Mail Stop Petition  
                  Commissioner for Patents  
                  P.O. Box 1450  
                  Alexandria, VA 22313-1450

By FAX:        (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions



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SEP 25 2008

In re Application of :  
Enzo Pinelli :  
Application No. 10/556,506 :  
Filed: November 14, 2005 :  
Atty Docket No. 41021/AJ/LP :

**OFFICE OF PETITIONS**  
**DECISION ON PETITION**

This is a decision on the request for reconsideration filed September 3, 2008, which is treated under 37 C.F.R. § 1.181.

The petition is **GRANTED**.

This application became abandoned on April 29, 2008 after the applicant failed to pay the issue fee in response to the Notice of Allowance mailed January 28, 2008. Accordingly, a Notice of Abandonment was mailed May 22, 2008.

In support, petitioner has submitted, *inter alia*, a copy of the issue fee transmittal form with the certificate of mailing or transmission dated April 7, 2008 pursuant to 37 CFR 1.8.

A search of the application file and the USPTO records does not reveal receipt of the issue fee transmittal but, the petition complies with the requirements set forth in 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment mailed on May 22, 2008, is hereby withdrawn. No petition fee is necessary and none has been charged.

This matter will be referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions



NOVOZYMES NORTH AMERICA, INC.  
500 FIFTH AVENUE  
SUITE 1600  
NEW YORK NY 10110

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SEP 10 2008

**OFFICE OF PETITIONS**

In re Application of :  
BORCH et al. :  
Application No. 10/556,511 : DECISION ON PETITION  
Filed: 11/09/2005 : UNDER 37 CFR 1.78(a)(6)  
Attorney Docket No. 10470.204-US :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 30, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

- (1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the later-filed application must be pending at the time of filing of the reference to the prior-filed provisional applications as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional applications must have been filed within twelve months of the filing dates of the prior-filed provisional applications.

37 CFR 1.78(a)(6) requires a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR 1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office. As all of the requirements have been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

**The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.**

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1652 for consideration by the examiner of the claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional applications.

*Christina Tartera Donnell*

Christina Tartera Donnell  
Senior Petitions Attorney  
Office of Petitions

**ATTACHMENT:** Corrected Filing Receipt



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Table with 7 columns: APPLICATION NUMBER, FILING or 371(c) DATE, GRP ART UNIT, FIL FEE REC'D, ATTY.DOCKET.NO, TOT CLAIMS, IND CLAIMS. Row 1: 10/556,511, 11/09/2005, 1652, 1600, 10470.204-US, 20, 3

CONFIRMATION NO. 7079

CORRECTED FILING RECEIPT

25908
NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110



Date Mailed: 09/08/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections

Applicant(s)

- Kim Borch, Birkerod, DENMARK;
Luise Erlandsen, Copenhagen V, DENMARK;
Jesper Vind, Vaerloose, DENMARK;
Allan Svendsen, Horsholm, DENMARK;
Christel Thea Jorgensen, Kgs Lyngy, DENMARK;

Assignment For Published Patent Application

NOVOZYMES A/S, BAGSVAERD, DENMARK

Power of Attorney: The patent practitioners associated with Customer Number 25908

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/DK04/00292 04/29/2004
which claims benefit of 60/479,647 06/19/2003
and claims benefit of 60/469,228 05/09/2003
and claims benefit of 60/474,881 05/30/2003

Foreign Applications

- DENMARK PA 2003 00709 05/09/2003
DENMARK 2003 00811 05/30/2003

If Required, Foreign Filing License Granted: 07/03/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US 10/556,511

Projected Publication Date: Not Applicable

Non-Publication Request: No

**Early Publication Request: No**

**Title**

VARIANT LIPOLYTIC ENZYMES

**Preliminary Class**

435

## **PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES**

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

### **LICENSE FOR FOREIGN FILING UNDER**

**Title 35, United States Code, Section 184**

**Title 37, Code of Federal Regulations, 5.11 & 5.15**

### **GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



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FOLEY AND LARDNER LLP  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

Mail Date: 04/21/2010

**Applicant** : Mario Budweg : DECISION ON REQUEST FOR  
**Patent Number** : 7667345 : RECALCULATION of PATENT  
**Issue Date** : 02/23/2010 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/556,515 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 11/14/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1086** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.:

DATE : 4/13/10

TO SPE OF : ART UNIT: 2836 ATTN: FUREMAN JARED (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/556515 Patent No.: 7667345

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)  
Randolph Square Building (RSQ)  
2800 South Randolph Street, Suite 9XXXX  
Arlington, VA 22206  
PALM Location 7580

**Tasneem Siddiqui**

Certificates of Correction Branch  
703-756-1593

Thank You for Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
SPE

\_\_\_\_\_  
Art Unit

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-1080)

**UNITED STATES PATENT AND TRADEMARK OFFICE  
CERTIFICATE OF CORRECTION**

PATENT NO. : 7,667,345  
 APPLICATION NO. : 10/556,515  
 DATED : 2/23/2010  
 INVENTOR(S) : Mario Budweg; Wolfgang Pellenz; Alexander Czinki; Ralf Hoge; Richard Boudinot; Piotr Szablewski

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 1, line 1, the title should read:

VEHICLE SEAT ADJUSTING MECHANISM

MAILING ADDRESS OF SENDER (Please do not use customer number below):

3000 K Street, N.W.  
 Suite 600  
 Washington, D.C. 20007-5143

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer.

U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.:

DATE: 4/13/10

TO SPE OF: ART UNIT: 2836 ATTN: FUREMAN JARED (SPE)

SUBJECT: Request for Certificate of Correction for Appl. No.: 10/556515 Patent No.: 7667345

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building (RSQ)
2800 South Randolph Street, Suite 9XXXX
Arlington, VA 22206
PALM Location 7580

Tasneem Siddiqui

Certificates of Correction Branch
703-756-1593

Thank You for Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- Approved (checked) All changes apply.
Approved in Part Specify below which changes do not apply.
Denied State the reasons for denial below.

Comments: The request for certificate of correction has been approved since it does not introduce new matter or change the scope of the claims.

Jared Fureman
/Jared Fureman/

2836

SPE

Art Unit

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-1080)

**UNITED STATES PATENT AND TRADEMARK OFFICE  
CERTIFICATE OF CORRECTION**

PATENT NO. : 7,667,345  
APPLICATION NO. : 10/556,515  
DATED : 2/23/2010  
INVENTOR(S) : Mario Budweg; Wolfgang Pellenz; Alexander Czinki; Ralf Hoge; Richard Boudinot; Piotr Szablewski

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 1, line 1, the title should read:

VEHICLE SEAT ADJUSTING MECHANISM

MAILING ADDRESS OF SENDER (Please do not use customer number below):

3000 K Street, N.W.  
Suite 600  
Washington, D.C. 20007-5143

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.

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15 DEC 2006

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GOODWIN PROCTER LLP  
103 EISENHOWER PARKWAY  
ROSELAND, NJ 07068

In re Application of LABOWSKY et al	:	
U.S. Application No. 10/556,521	:	
PCT Application No.: PCT/US2004/005133	:	DECISION
Int. Filing Date: 21 February 2004	:	
Priority Date Claimed: 22 February 2003	:	
Attorney Docket No.: 102687-805-NP	:	
For: ION MOBILITY SEPARATION DEVICES	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 14 November 2005.

**BACKGROUND**

On 21 February 2004, applicant filed international application PCT/US2004/005133, which claimed priority of an earlier United States application filed 22 February 2003. The thirty-month period for paying the basic national fee in the United States expired on 22 August 2005.

International application PCT/US2004/005133 became abandoned as to the United States for failure to timely pay the basic national fee.

On 14 November 2005, applicant filed the present petition under 37 CFR 1.137(b).

**DISCUSSION**

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

### CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.



Bryan Lin  
PCT Legal Examiner  
PCT Legal Office

Telephone: 571-272-3303  
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE  
CERTIFICATE OF CORRECTION

Page 1 of 1

PATENT NO. : 7,466,909 *B2*  
APPLICATION NO.: 10/556,523  
ISSUE DATE : December 16, 2008  
INVENTOR(S) : Peter Cornelis Meininger

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Please correct the name and address of the Assignee to be:

Maxifoto International N.V.  
Kaya W.F.G. (Jombi) Mensing 14  
Curacao  
Netherlands Antilles

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Monique A. Morneault, McDermott Will & Emery LLP, 227 West Monroe, Chicago, IL 60606

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

JAN 13 2009



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Robert D. Shedd, Patent Operations  
THOMSON Licensing LLC  
P.O. Box 5312  
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

<b>Applicant</b>	: Joshua Lawrence Koslov	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7616706	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/556,538	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 11/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1010** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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United States Patent and Trademark Office  
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**300 S WACKER DR**  
**25TH FLOOR**  
**CHICAGO IL 60606**

**MAILED**

**JUL 12 2010**

**OFFICE OF PETITIONS**

In re Application of	:	
Jacques Villiers	:	
Application No. 10/556,559	:	ON PETITION
Filed : November 14, 2005	:	
Attorney Docket No. 1606.74249	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 17, 2010, 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 (PTO/SB/130 form) by the applicant's attorney that applicant is 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3663 for action on the merits commensurate with this decision.

Joan Olszewski  
Petitions Examiner  
Office of Petitions



Date Mailed: September 7, 2007

MORGAN LEWIS & BOCKIUS LLP  
1111 PENNSYLVANIA AVENUE NW  
WASHINGTON DC 20004

Applicant: Thomas  
Appl. No.: 10/556,561  
Filing Date: November 14, 2005  
Title: 2-ANILINO-4-(IMIDAZOL-5-YL)-PYRIMIDINE DERIVATIVES AND THEIR USE  
AS CDK(CDK2) INHIBITORS  
Attorney Docket No.: 056291-5217  
Pub. No.: US 2007/0037839 A1  
Pub. Date: February 15, 2007

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on August 8, 2007, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because the Applicant submitted the papers as follow-on "Document", which are entered into the application file and not as a "Pre-Grant Publication" submission. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission.

Any questions or requests for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.



Tammy J. Koontz  
Program & Management Analyst  
Pre-Grant Publication Division  
Office of Patent Publication

Adjustment date: 09/07/2007 KKING1  
08/09/2007 INTEFSW 00009000 500310 10556561  
01 FC:1505 300.00 CR



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

**Cooley Godward Kronish, LLP**  
**Attn: Patent Group**  
**Suite 1100**  
**777 – 6<sup>th</sup> Street, NW**  
**Washington, DC 20001**

**MAILED**  
**SEP 17 2009**  
**OFFICE OF PETITIONS**  
**DECISION ON PETITION**  
**TO WITHDRAW**  
**FROM RECORD**

In re Application of :  
Latchezar I. Tsonev et al. :  
Application No. 10/556,562 :  
Filed: October 10, 2006 :  
Attorney Docket No. CRYO-002/03US/306782- :  
2021 :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 5, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas A. Blinka on behalf of all attorneys/agents associated with customer number 58249. All attorneys/agents associated with customer number 58249 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

  
Kimberly Inabinet  
Petitions Examiner  
Office of Petitions

cc: Cryobiophysics, Inc.  
12111 Parklawn Drive  
Rockville, MD 20852



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
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10/556,562

10/10/2006

Latchezar I. Tsonev

CRYO-002/03US/  
306782-2021

**CONFIRMATION NO. 9081**

**POWER OF ATTORNEY NOTICE**



58249  
COOLEY GODWARD KRONISH LLP  
ATTN: Patent Group  
Suite 1100  
777 - 6th Street, NW  
WASHINGTON, DC 20001

Date Mailed: 09/17/2009

**NOTICE REGARDING CHANGE OF POWER OF ATTORNEY**

This is in response to the Power of Attorney filed 08/05/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



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FAY SHARPE/LUCENT  
1228 Euclid Avenue, 5th Floor  
The Halle Building  
Cleveland, OH 44115-1843

Mail Date: 04/21/2010

**Applicant** : Hassan El Nahas El Homsi : DECISION ON REQUEST FOR  
**Patent Number** : 7583721 : RECALCULATION of PATENT  
**Issue Date** : 09/01/2009 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/556,573 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 11/14/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **912** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 APR 2008

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

CONTINENTAL TEVES, INC.  
ONE CONTINENTAL DRIVE  
AUBURN HILLS MI 48326-1581

In re Application of:	:	
JAHN, Michael	:	
U.S. Application No.: 10/556,574	:	DECISION ON PETITION
PCT No.: PCT/DE2004/000227	:	
International Filing Date: 10 February 2004	:	
Priority Date: 12 May 2003	:	
Atty Docket No.: TM002	:	
For: CONTACTING DEVICE FOR A	:	
FLEXIBLE RIBBON CONDUCTOR	:	

The petition for revival under 37 CFR 1.137(b) filed 14 February 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 30 December 2006, based on applicant's failure to file a timely response to the "Notification Of Missing Requirements" (Form PCT/DO/EO/905) mailed 30 October 2006. A "Notification Of Abandonment" (Form PCT/DO/EO/909) was mailed on 31 January 2008.

The present petition for revival was accompanied by payment of the required petition fee and the "required reply" in the form of a proper response to the Notification Of Missing Requirements, that is, an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date. In addition, the petition includes a statement that "the entire delay in filing the required reply from the due day for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfying 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 application is appropriately granted.

This application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 14 February 2008.

Richard M. Ross  
Attorney Advisor  
Office of PCT Legal Administration  
Telephone: (571) 272-3296  
Facsimile: (571) 273-0459



UNITED STATES PATENT AND TRADEMARK OFFICE

25 APR 2008

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CONTINENTAL TEVES, INC.  
ONE CONTINENTAL DRIVE  
AUBURN HILLS MI 48326-1581

In re Application of: :  
JAHN, Michael :  
U.S. Application No.: 10/556,574 :  
PCT No.: PCT/DE2004/000227 :  
International Filing Date: 10 February 2004 :  
Priority Date: 12 May 2003 :  
Atty Docket No.: TM002 :  
For: CONTACTING DEVICE FOR A :  
FLEXIBLE RIBBON CONDUCTOR :

DECISION ON PETITION

The petition for revival under 37 CFR 1.137(b) filed 14 February 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 30 December 2006, based on applicant's failure to file a timely response to the "Notification Of Missing Requirements" (Form PCT/DO/EO/905) mailed 30 October 2006. A "Notification Of Abandonment" (Form PCT/DO/EO/909) was mailed on 31 January 2008.

The present petition for revival was accompanied by payment of the required petition fee and the "required reply" in the form of a proper response to the Notification Of Missing Requirements, that is, an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date. In addition, the petition includes a statement that "the entire delay in filing the required reply from the due day for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfying 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 application is appropriately granted.

This application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 14 February 2008.

*ree R*

Richard M. Ross  
Attorney Advisor  
Office of PCT Legal Administration  
Telephone: (571) 272-3296  
Facsimile: (571) 273-0459



**BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH VA 22040-0747**

**MAILED**

**AUG 13 2009**

In re Application of  
**KWON, Sun-Tae**  
Application No. 10/556,580  
Filed: November 14, 2005  
Attorney Docket No. **4971-0110PUS1**

**OFFICE OF PETITIONS**

**DECISION ON PETITION  
TO WITHDRAW  
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 19, 2007.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (11-08).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

  
Tredelle D. Jackson  
Paralegal Specialist  
Office of Petitions

cc: **SUN-TAE KWON  
125-108  
JUONG 1 DANJI APT 19  
JAMSIL-DONG, SONGPA-GU  
SEOUL  
REPUBLIC OF KOREA**



**BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH VA 22040-0747**

**COPY MAILED**

**AUG 24 2009**

In re Application of  
**KWON, Sun-Tae**  
Application No. 10/556,580  
Filed: November 14, 2005  
Attorney Docket No. 4971-0110PUS1

**OFFICE OF PETITIONS**

**DECISION ON PETITION  
TO WITHDRAW  
FROM RECORD**

This is a corrected decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 19, 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. 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 James Eller, Jr. on behalf of all attorneys of record who are associated with customer No. 02292. All attorneys/agents associated with the Customer Number 02292 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 Sun-Tae Kwon at the address indicated below. There is an outstanding Office action mailed July 14, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

  
Tredelle D. Jackson  
Paralegal Specialist  
Office of Petitions

cc: **SUN-TAE KWON  
125-108 JUNGON 1 DANJI  
APT. 19  
JAMSIL-DONG, SONGPA-GU  
SEOUL 138-908  
REPUBLIC OF KOREA**



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KENYON & KENYON LLP  
1500 K STREET N.W.  
SUITE 700  
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant : Haruyuki Nakanishi : DECISION ON REQUEST FOR  
Patent Number : 7666540 : RECALCULATION of PATENT  
Issue Date : 02/23/2010 : TERM ADJUSTMENT IN VIEW  
Application No : 10/556,606 : OF WYETH AND NOTICE OF INTENT TO  
Filed : 11/14/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1110** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



# UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450  
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HAHN LOESER & PARKS, LLP  
One GOJO Plaza  
Suite 300  
AKRON, OH 44311-1076

Mail Date: 04/20/2010

<b>Applicant</b>	: Takeshi Iwano	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7667837	: RECALCULATION of PATENT
<b>Issue Date</b>	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/556,623	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 11/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **578** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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SCHMEISER, OLSEN & WATTS  
22 CENTURY HILL DRIVE  
SUITE 302  
LATHAM, NY 12110

Mail Date: 04/21/2010

**Applicant** : Francois-Dominique Armingaud : DECISION ON REQUEST FOR  
**Patent Number** : 7617258 : RECALCULATION of PATENT  
**Issue Date** : 11/10/2009 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/556,627 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 11/10/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1032** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



McDonnell Boehnen Hulbert & Berghoff, LLP  
300 South Wacker Drive  
Suite 3100  
Chicago, IL 60606

In re Application of :  
PLOWMAN, et al. :  
Application No.: 10/556,637 :  
PCT No.: PCT/US04/19485 :  
Int. Filing Date: 18 June 2004 :  
Priority Date: 19 June 2003 :  
Atty Docket No.: EX04-042C-US :  
For: MYLKS AS MODIFIERS OF BRANCHING :  
MORPHOGENESIS AND METHODS OF USE :

DECISION ON PETITION  
UNDER 37 CFR 1.181

This decision is in response to applicant's "Response to Notification of Abandonment" filed 26 March 2008 in the United States Patent and Trademark Office (USPTO). The response is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. No petition fee is due.

**BACKGROUND**

On 18 June 2004, applicant filed international application PCT/US04/19485, which claimed priority of an earlier application filed 19 June 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, 19 December 2005.

On 10 November 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an application data sheet and sequence listing.

On 29 January 2007, 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 also notified of a required fee payment of \$330.00. 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 31 January 2008, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 29 January 2007 within the time

period set therein and that above-identified application was abandoned as to the United States.

On 26 March 2008, applicant filed the present petition under 37 CFR 1.181 accompanied by copies of a response purportedly filed on 20 March 2007.

### **DISCUSSION**

Applicant has provided a legible copy of the receipt postcard which shows a USPTO date stamp, "IAP6 Rec'd PCT/PTO 20 MAR 2007" and clearly identifies in part: "Executed Declaration/Power of Attorney documents" as well as listing the applicant, serial number, title and attorney docket number. The postcard has not been annotated in any way to indicate that the declaration and power of attorney was not received by the Office. The evidence is sufficient to establish that the executed declaration and revocation of power of attorney was received in the USPTO on 20 March 2007. Applicant has certified that the presently filed copy of the document is a true and complete copies of the paper originally filed on 20 March 2007. As such, it is proper to accept the presently filed declaration as having been filed on 20 March 2007 and to **GRANT** applicant's petition at this time.

Regarding the fee payment, a review of the fee record for the present application finds that while applicant authorized the charging of \$1150 in fees upon filing only \$1050 was charged to the deposit account. An additional \$100 was charged on 20 March 2007 and combined with applicant's payment of \$100 as payment of the \$200 examination fee.

### **CONCLUSION**

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The "NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909)" mailed on 31 January 2008 is hereby **VACATED**.

This application has an international application filing date of 18 June 2004 and will be given a date of **20 March 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



19 FEB 2008

Heslin Rothenberg Farley & Mesiti PC  
5 Columbia Circle  
Albany, New York 12203

In re Application of :  
CAMPBELL, Sean J. :  
Application No.: 10/556,642 : DECISION ON PETITION  
PCT No.: PCT/GB04/00628 :  
Int. Filing Date: 17 February 2004 :  
Priority Date: 14 May 2003 :  
Attorney Docket No.: 1324.044 :  
For: SCREED COMPRISING RECYCLED :  
GLASS WASTE :

This decision is issued in response to applicant's "Petition under 37 CFR 1.181 To Withdraw Holding of Abandonment" filed 12 February 2008. No petition fee is required.

### **BACKGROUND**

On 17 February 2004, applicant filed international application PCT/GB04/00628 which claimed a priority date of 14 May 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 14 November 2005.

On 10 November 2005, applicant filed a Transmittal Letter for entry into the national stage accompanied, *inter alia*, by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 20 October 2006, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 31 January 2008, 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 for failure to file a complete response to the Notification of Missing Requirements mailed 20 October 2006 within the time period set therein.

On 12 February 2008, applicant filed the present petition which was accompanied, among other things: a copy of the declaration(s) and power of attorney(s) and a post card receipt dated 15 November 2006.

### DISCUSSION

Applicant states in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 15 November 2006. A review of the present application reveals that the declaration is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicant has provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant, title of invention, serial number, and attorney docket number. The receipt itemizes a declaration of the inventor. The receipt is stamped "Rec'd PCT/PTO 15 November 2006" across its face is sufficient to indicate that the above items were in fact received in the Office on 15 November 2006.

### CONCLUSION

Applicant's petition under 37 CFR 1.181 is GRANTED.

This application will be given an international filing date of 17 February 2004 and a date of **15 November 2006** under 35 U.S.C. 371.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.



Anthony Smith  
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0 4 FEB 2008

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Alexandria, VA 22313-1450  
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UNILEVER INTELLECTUAL PROPERTY GROUP  
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In re Application of	:	
CLOWES et al.	:	
Application No.: 10/556,646	:	
PCT No.: PCT/EP04/03992	:	
Int. Filing Date: 09 April 2004	:	DECISION
Priority Date: 13 May 2003	:	
Attorney Docket No.: C4305(C)	:	
For: Fabric Conditioning Compositions	:	

This is in response to the petition to withdraw the holding of abandonment filed on 11 December 2007.

**BACKGROUND**

This international application was filed on 09 April 2004, claimed an earliest priority date of 13 May 2003, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 25 November 2004. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 13 November 2005. On 10 November 2005, applicants filed *inter alia* the basic national fee.

On 01 February 2007, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

On 07 December 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements mailed on 01 February 2007.

**DISCUSSION**

Petitioner states in part that the holding of abandonment “was made in error” in that a response “was timely filed on March 13, 2007.” Petitioner refers to an enclosed copy of the response and a copy of a return postcard receipt which itemizes *inter alia* an “Executed Declaration” and is stamped as received by OIPE on “MAR 27 2007.”

MPEP 503 states in part that

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Following the policy described at MPEP 503, the copy of the declaration document received on 11 December 2007 is being regarded as a copy of the declaration originally filed on 27 March 2007, and itemized on the postcard receipt. Review of the declaration reveals that it is acceptable for purposes of compliance with 37 CFR 1.497(a) and (b). It is noted that the records of the USPTO show that the surcharge was paid on 27 March 2007. Therefore, the Notification of Abandonment mailed on 07 December 2007 is hereby **VACATED**.

**CONCLUSION**

The petition is **GRANTED**.

This application is being returned to the Office of Patent Application Processing for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **27 March 2007**.



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26 FEB 2008

Friedrich Kueffner  
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In re Application of  
FORSTNER, Klaus :  
U.S. Application No. 10/556,652 :  
PCT No.: PCT/DE04/00515 :  
Int. Filing Date: 15 March 2004 : DECISION ON REQUEST  
Priority Date: 13 May 2003 :  
Attorney Docket No.: HKH-23PCT :  
For: METHOD AND DEVICE FOR :  
DETERMINING BLOOD :  
COMPONENTS USING RATIOMETRIC :  
ABSOLUTE PULSE SPECTROSCOPY :

This decision is in response to applicant's "Request to Withdraw Holding of Abandonment" filed 11 February 2008, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the Notification of Abandonment mailed by the Office on 31 January 2008. No petition fee is required.

### BACKGROUND

On 15 March 2004, applicant filed the above-captioned international application which claimed a priority date of 13 May 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 25 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 13 November 2005.

On 13 November 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the basic national fee; a copy of the international application; an unexecuted declaration; and a preliminary amendment.

On 27 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 that an executed oath or declaration in compliance with 37 CFR 1.497 was omitted. A new 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. The notification set a two-month time limit in which to respond.

On 31 January 2008, the United States Elected Office mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 27 September 2006 within the time period set therein.

On 11 February 2008, applicant filed the present "Request to Withdraw Holding of Abandonment."

### DISCUSSION

Applicant states in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 16 November 2006. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

"If a receipt of any paper filed in the Patent and Trademark Office is desired, it may be obtained by enclosing with the paper a self-addressed postcard identifying the paper. The Patent and Trademark Office will stamp the receipt date on the card and place it in the outgoing mail.

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicant has provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant, application serial number, and docket number. The receipt itemizes, inter alia, an Executed Declaration. The receipt is stamped "PCT/PTO 16 November 2006" across its face. However, a review of the application file reveals that the declaration filed on 16 November 2006 is not located therein and applicant has not submitted a true copy of the declaration with the present petition. At this time, it is not appropriate for the Office to withdraw the Notification of Abandonment (Form PCT/DO/EO/909) mailed 31 January 2008 without a true copy of the declaration filed on 16 November 2006.

### CONCLUSION

For the reasons discussed above, applicant's petition is DISMISSED without prejudice.

Applicant is hereby given a **TWO (2) MONTH** time period from the mail date of this communication in order to file a proper response. A proper response must include a true copy of an acceptable declaration alleged to have been filed on 16 November 2006 together with an appropriate statement verifying that the declaration is a true copy.

Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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20 MAY 2008

Commissioner for Patents  
United States Patent and Trademark Office  
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Friedrich Kueffner  
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In re Application of  
FORSTNER, Klaus :  
U.S. Application No. 10/556,652 :  
PCT No.: PCT/DE04/00515 :  
Int. Filing Date: 15 March 2004 : DECISION ON REQUEST  
Priority Date: 13 May 2003 :  
Attorney Docket No.: HKH-23PCT :  
For: METHOD AND DEVICE FOR :  
DETERMINING BLOOD :  
COMPONENTS USING RATIO-METRIC :  
ABSOLUTE PULSE SPECTROSCOPY :

This decision is issued in response to applicant's "Response to Decision on Request" filed 04 March 2008, treated herein as a renewed petition under 37 CFR 1.181. No petition fee is required.

### **BACKGROUND**

On 15 March 2004, applicant filed the above-captioned international application which claimed a priority date of 13 May 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 25 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 13 November 2005.

On 12 November 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the basic national fee; a copy of the international application; an unexecuted declaration; and a preliminary amendment.

On 27 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 that an executed oath or declaration in compliance with 37 CFR 1.497 was omitted. A new 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. The notification set a two-month time limit in which to respond.

On 31 January 2008, the United States Elected Office mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 27 September 2006 within the time period set therein.

On 11 February 2008, applicant filed a "Request to Withdraw Holding of Abandonment." In a decision dated 26 February 2008, applicant's petition was dismissed without prejudice.

On 04 March 2008, applicant filed a renewed petition under 37 CFR 1.181

### DISCUSSION

Applicant states in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 16 November 2006. A review of the present application reveals that the declaration is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

"If a receipt of any paper filed in the Patent and Trademark Office is desired, it may be obtained by enclosing with the paper a self-addressed postcard identifying the paper. The Patent and Trademark Office will stamp the receipt date on the card and place it in the outgoing mail.

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicant has provided a copy of the declaration and a copy of their date-stamped filing receipt. The receipt identifies the application by the application number, title of invention, and attorney docket number. The receipt itemizes, among other things, a declaration. The receipt is stamped "Rec'd PCT/PTO 16 November 2006" across its face is sufficient to indicate that the above item was in fact received in the Office on 16 November 2006.

### CONCLUSION

Applicant's petition under 37 CFR 1.181 is GRANTED.

In view of the declaration filed 16 November 2006, the Notification of Abandonment (Form PCT/DO/EO/909) dated 31 January 2008 is hereby VACATED.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

A handwritten signature in black ink, appearing to read "Anthony Smith", with a long horizontal flourish extending to the right.

Anthony Smith  
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01 MAY 2008

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CHICAGO IL 60610

In re Application of: :  
TARTE, Frederic, et al. : DECISION  
U.S. Application No.: 10/556,664 :  
PCT No.: PCT/SE2004/000642 :  
International Filing Date: 28 April 2004 :  
Priority Date: 12 May 2003 :  
Atty Docket No.: 12400-050 :  
For: A STEERING WHEEL :

This decision is issued in response to the "Petition Under 37 CFR 1.181(a) Requesting Withdrawal Of The Holding Of Abandonment" filed 21 February 2008. No petition fee is required.

### **BACKGROUND**

On 28 April 2004, applicants filed international application PCT/SE2004/000642. The international application claimed a priority date of 12 May 2003, and it designated the United States. On 18 November 2004, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 12 November 2005.

On 11 November 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 September 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing this declaration later than thirty months after the priority date were required.

On 31 January 2008, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a timely response to the Notification Of Missing Requirements.

On 21 February 2008, applicants filed the petition under 37 CFR 1.181 to withdraw the holding of abandonment considered herein. The petition asserts that, on 17 October 2006, applicants filed via facsimile a timely response to the Notification Of Missing Requirements, including a fully executed declaration and the authorization to charge applicants for the required surcharge.

## DISCUSSION

The petition states that a response to the Notification Of Missing Requirements, including an executed declaration and surcharge payment, was filed by facsimile on 17 October 2006. Exhibit A to the petition is ten pages identified as a copy of the 17 October 2006 submission; these materials include an executed declaration. Exhibit B to the petition is an "Auto-Reply Facsimile Transmission" generated by the USPTO, which indicates receipt of a 10-page facsimile transmission on 17 October 2006 and bears a reduced-size version of applicant's facsimile cover sheet. Exhibit 3 to the petition is a copy of the Transmission Verification Report from applicant's facsimile machine, which also confirms a ten-page transmission on 17 October 2006 and bears a reduced-size version of applicant's facsimile cover sheet.

37 CFR 1.8(b) states the following:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

With regard to item (1) above, the present petition was filed promptly after the mailing of the Notification of Abandonment.

With regard to item (2) above, the petition states that the response filed 17 October 2006 "is attached as Exhibit A." Exhibit A consists of ten total pages, including an executed declaration, and the first page of includes a Certificate Of Facsimile Transmission" executed by an "M. Collins."

With regard to item (3) above, section 512 of the MPEP states the following: "If the person signing the statement did not sign the certificate of mailing, then the person signing the statement should explain how they have firsthand knowledge of the previous timely mailing or transmission." The present petition is signed by Steven L. Oberholtzer and, as noted above, the petition indicates that the response filed 17 October 2006 is "attached as Exhibit A." However, the petition does not include an express statement confirming that the ten pages attached as Exhibit A are a true copy of the materials filed on 17 October 2006. Moreover, Mr. Oberholtzer is not the person who executed the Certificate of Facsimile Transmission for the 17 October 2006 transmission, and he does not state "how he has firsthand knowledge of the previous

mailing or transmission," as required by the MPEP (the petition does not include a confirming statement from "M. Collins," the person who signed the Certificate of Facsimile Transmission).

Based on the above, the present submission does not satisfy the requirement of 37 CFR 1.8(b). Applicants must provide supplemental materials confirming that the ten page document attached as Exhibit A to the present petition is a true copy of the materials filed herein on 17 October 2006 (i.e., a statement from "M. Collins" confirming this fact on a firsthand basis, or a statement from counsel expressly confirming that the Exhibit is a true copy of the previously filed materials and indicating how counsel has firsthand knowledge of the previous transmission). Until such supplemental materials are provided, it cannot be concluded that the declaration and fee authorization included with the present petition were originally filed by facsimile on 17 October 2006 as a timely response to the Notification Of Missing Requirements.

### CONCLUSION

For the reasons discussed above, applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181 and 1.8(b) is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the mail date of the present decision and must include additional materials confirming that the ten page document attached as Exhibit A to the petition is a true copy of the materials filed herein on 17 October 2006, as discussed above and in the MPEP.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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03 JUN 2008

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United States Patent and Trademark Office  
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www.uspto.gov

BRINKS HOFER GILSON & LIONE  
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In re Application of:	:	
TARTE, Frederic, et al.	:	DECISION ON RENEWED
U.S. Application No.: 10/556,664	:	PETITION
PCT No.: PCT/SE2004/000642	:	
International Filing Date: 28 April 2004	:	
Priority Date: 12 May 2003	:	
Atty Docket No.: 12400-050	:	
For: A STEERING WHEEL	:	

This decision is issued in response to the "Response To Decision On Petition Under 37 CFR 1.181(a) Requesting Withdrawal Of The Holding Of Abandonment" filed 17 May 2008. No petition fee is required.

**BACKGROUND**

The procedural background for the present application was set forth in the decision mailed on 01 May 2008. The decision dismissed applicants' petition for withdrawal of the holding of abandonment based on applicants' failure to satisfy all the requirements for a grantable petition to confirm the timely filing of a response to the Notification of Missing Requirements.

On 17 May 2008, applicants filed the "Response To Decision On Petition Under 37 CFR 1.181(a) Requesting Withdrawal Of The Holding Of Abandonment" considered herein as a renewed petition.

**DISCUSSION**

Applicants' petition asserts that a response to the Notification Of Missing Requirements mailed 27 September 2006, including an executed declaration and surcharge payment, was filed by facsimile on 17 October 2006. The decision mailed on 01 May 2008 indicated that applicants had failed to provide the showing required by 37 CFR 1.8(b) to confirm the 17 October 2006 facsimile submission. The decision stated that applicants were required to provide:

supplemental materials confirming that the ten page document attached as Exhibit A to the present petition is a true copy of the materials filed herein on 17 October 2006 (i.e., a statement from "M. Collins" confirming this fact on a firsthand basis, or a statement from counsel expressly confirming that the Exhibit is a true copy of the previously filed materials and indicating how counsel has firsthand knowledge of the previous transmission).

The renewed petition includes express statements from counsel and from Melissa A. Collins, the person who executed the certificate of transmission on the original submission, confirming on a firsthand basis that the ten page submission attached as Exhibit A to both the original and renewed petitions is a true copy of the ten-page facsimile submission filed 17 October 2006 as a timely response to the Notification of Missing Requirements. These materials, in combination with the original petition, provide an acceptable showing under 37 CFR 1.8(b) confirming the 17 October 2006 filing. Accordingly, the materials attached as Exhibit A to the present petition (including the executed declaration) are appropriately treated, for purposes of timeliness, as having been filed on 17 October 2006 as a timely response to the Notification of Missing Requirements mailed 27 September 2006. It is noted that, for all other purposes, these materials will be treated as having been filed on 21 February 2008, the filing date of the original petition (see 37 CFR 1.8(a)).

The Notification of Abandonment mailed 31 January 2008, based as it was on applicants' purported failure to file a timely response to the Notification Of Missing Requirements mailed 27 September 2006, is appropriately vacated.

### CONCLUSION

The renewed petition to withdraw the holding of abandonment is **GRANTED**.

Pursuant to 37 CFR 1.8, for purposes of timeliness, the materials accompanying the present petition, including the executed declaration, are treated as having been submitted on 17 October 2006 as a timely response to the Notification Of Missing Requirements mailed 27 September 2006.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 31 January 2008 is hereby **VACATED**.

This application is being returned to the National Stage Processing Branch of the International Division 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 2008.



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22 AUG 2006

BOSE MCKINNEY & EVANS LLP  
135 N PENNSYLVANIA ST  
SUITE 2700  
INDIANAPOLIS IN 46204

In re Application of	:	
BRESSAN	:	
Application No.: 10/556,669	:	DECISION ON
PCT No.: PCT/US2004/010599	:	
Int. Filing Date: 07 April 2004	:	PETITION UNDER
Priority Date: 09 April 2003	:	
Attorney Docket No.: 12258-0072	:	37 CFR 1.137(b)
For: METHODS AND COMPOSITIONS TO	:	
INCREASE PLANT RESISTANCE TO STRESS	:	

This decision is in response to applicant's submission filed 14 November 2005.

**BACKGROUND**

On 07 April 2004, applicant filed international application PCT/US2004/010599 which designated the U.S. and claimed a priority date of 09 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 28 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 11 October 2005 (09 October 2005 being a Sunday and 10 October 2005 being a Federal holiday).

On 14 November 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, 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, an assertion of small entity status, and a petition under 37 CFR 1.137(b) to revive the application.

**DISCUSSION**

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 14 November 2005.

As to item (2), applicant submitted the petition fee on 14 November 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).



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# UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 800  
WASHINGTON, DC 20037

Mail Date: 04/20/2010

<b>Applicant</b>	: Toshinori Isobe	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7622057	: RECALCULATION of PATENT
<b>Issue Date</b>	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/556,680	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 11/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.



17 MAY 2007

22850  
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, VA 22314

In re Application of :  
STANISLAV *et al* :  
U.S. Application No.: 10/556,685 :  
PCT No.: PCT/IT02/00821 :  
Int. Filing Date: 14 May 2004 :  
Priority Date: 15 May 2003 :  
Attorney Docket No.: 280063US0PCT :  
For: A METHOD FOR PREPARATION OF :  
N-(1-OXOPENTYL)-N-[[2'-(1h- :  
TETRAZOL-5--Y1)[1,1'-BIPHENYL]-4- :  
Y1]METHYL]-L-VALINE(VALSARTAN) :

**DECISION**

This is a decision on applicants' "Request for Withdrawal of Notification of Abandonment" filed on 20 March 2007.

**BACKGROUND**

On 23 June 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed 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 available.

On 04 August 2006, applicants filed a response which was accompanied by, *inter alia*, a declaration. These papers are located in the file.

On 01 March 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed for failing to respond to the Form PCT/DO/EO/905 mailed 23 June 2006 within the time period set therein.

On 20 March 2007, applicants submitted the subject petition along with a copy of the date-stamped postcard receipt for the 04 August 2006 submission and copies of said documents.

**DISCUSSION**

The response filed 04 August 2006 was located in the file. The declaration is in compliance with 37 CFR 1.497(a) and (b).

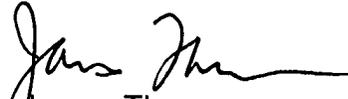
**CONCLUSION**

In view of the above, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Form PCT/DO/EO/909 mailed 01 March 2007 is **VACATED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 14 May 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 04 August 2006.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



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GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C  
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*In re* Application of: :  
WEBER, GUNTHER :  
Serial No.: 10/556,691 :  
Filed: Nov. 11, 2005 : DECISION ON PETITION  
Docket: MFA-19802/04 :  
Title: DEVICE FOR SLICING FOOD :  
PRODUCTS :

This is a decision on the petition filed on January 8, 2009 seeking reversal of the objection to the proposed drawing changes and entry of amended Figs. 1-3 with amendment to the specification filed on December 7, 2007. The petition is being considered pursuant to 37 CFR 1.181. No fee is required.

The petition is **granted**.

In the petition, petitioner requests withdrawal of the examiner's Rule 83 objection to the drawings because the drawing objection was obviated by the proposed amended Figs. 1-3 and the amended specification filed on December 7, 2007. It is noted that in the advisory action of January 3, 2008, the examiner neither accepted nor approved the proposed changes of Figs. 1-3 and the amendment to the specification.

The record shows that:

1. On March 20, 2007, the examiner issued a non-final Office action and objected to the drawings because the drawings failed to illustrate various claimed features under 37 CFR 1.83(a).
2. On July 20, 2007, the applicant filed an amendment including proposed drawing changes to amend Fig. 1 and add Figs. 2-8 and also amended the specification indicating the various claim features.
3. October 4, 2007, the examiner issued a final Office action which repeated the drawing objection because amended and added figures 2-8 and accompanying amendment to the specification of July, 20, 2007 contain new matter.
4. On December 7, 2007, the applicant filed another set of drawing corrections (Figs. 1-3) and amendment to specification to overcome the examiner's new matter objection.

5. On January 3, 2008, the examiner issued an advisory action without commenting on the proposed drawing changes to Figs. 1-3 and the amendment to the specification. However, the examiner did not consider the entire amendment of December 7, 2007.
6. In the March 31, 2008 appeal brief, the applicant indicated and believed that the drawing objection was withdrawn because the examiner did not repeat drawing objection.
7. In the August 20, 2008 examiner's answer, the examiner informed the applicant that the new matter drawing objection is a petitionable matter.
8. On January 8, 2009, the current petition was filed requesting entry of amend and new Figs. 1-3 and accompanying amendment to the specification of December 7, 2007.

#### Analysis and Discussion

In the current petition, the petitioner requests withdrawal of the drawing objection on the grounds that the drawing corrections were made in accordance with the examiner's suggestion. Some conventional features were illustrated as black boxes. A review of the record indicates that the examiner did fail to address the drawing objection issues in the advisory action of Jan. 3, 2008. Based on the record, there is no apparent reason to deny the entry of the drawing corrections in Figs. 1-3 and the amendment to the specification as submitted on December 10, 2007 because such drawing corrections of Figs. 1-3 are not deemed to be new matter. Therefore, the petition is granted. The examiner is directed to approve the drawing correction of Figs. 1-3 and its accompanying amendment to the specification filed on December 10, 2007.

In order to avoid confusion and entry of amendments in an orderly fashion in this application, the amendments of July 20, 2007 and Dec. 7, 2007 will be entered. Particularly, the amendment of Dec. 7, 2007 does cancel the Jul. 20, 2007 amendment with new matter of Figs. 4-8 and their accompanying amendment to the specification.

#### Conclusion

For the foregoing reasons, the relief requested by petitioner is granted. After entry of amendments, this petition will be forwarded to the Board of Appeals for a decision. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

The petition is GRANTED.



Karen M. Young, Director  
Technology Center 3700



20 NOV 2007

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Troutman Sanders LLP  
600 Peachtree Street, NE  
Atlanta, GA 30308

In re Application of :  
SCHMIDT et al. :  
Application No.: 10/556,692 :  
PCT No.: PCT/NL03/00360 :  
Int. Filing Date: 16 May 2003 :  
Priority Date: None :  
Attorney Docket No.: GRONTMIJ1 :  
For: A PROCESS FOR THE BIOLOGICAL :  
TREATMENT OF AMMONIUM-RICH :  
AQUEOUS MEDIA :

DECISION ON PETITION

This decision is issued in response to applicants' "Request under 37 CFR 1.8(B) to Withdraw the Holding of Abandonment" filed 15 November 2007, which is being treated as petition under 37 CFR 1.181. No petition fee is required.

**BACKGROUND**

On 16 May 2003, applicants filed international application PCT/NL03/00360 which claimed no priority date. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 16 November 2005.

On 15 November 2005, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia*, by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 05 July 2006, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b). The notification set a two-month time limit in which to respond.

On 15 November 2007, applicants filed the present petition which was accompanied, among other things: a copy of the declaration(s) and power of attorney(s) and a post card receipt dated 10 October 2006.

## DISCUSSION

### A. Petition to Withdraw the Holding of Abandonment

Applicants state in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 10 October 2006. A review of the present application reveals that the declaration is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicants, title of invention, serial number, and attorney docket number. The receipt itemizes a declaration of the inventors. The receipt is stamped "Rec'd OIPE 10 OCT 2006" across its face is sufficient to indicate that the above item was in fact received in the Office on 10 October 2006. Therefore, the holding of Abandonment is withdrawn.

### B. Defective Declaration

The declaration (submitted with the present petition) is not in compliance with 37 CFR 1.497(a)-(b). Petitioner has provided a defective executed composite declaration. A composite declaration under 37 CFR 1.497(a)-(b) requires that the declaration must be complete and identify each inventor in each set of declarations provided. The composite declaration is defective because it contains multiple duplicate sheets (see page 1 of 2). This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signature pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.)

Further, the declaration executed by Michael Silvester Maria Jetten contains alterations that have not been initialed and dated. Specifically, additional addresses have been added to the declaration. Any changes made in ink in the application or oath prior to signing should be initiated and dated by the applicants prior to execution of the oath or declaration. The Office will not consider whether non-initialed and/or non-dated alteration were made before or after signing of the oath or declaration but will require a new oath or declaration. (See MPEP §605.04(a) and 37 CFR 1.52(c)) Therefore, a newly executed declaration of the inventor is required.

Lastly, the declaration (executed by Ingo Schmidt; Michael Silvester Maria Jetten and Rogier Nicolaas Antonius Van Kempen) is illegible due to the facsimile/copying

process. Therefore, a newly executed declaration of the inventor is required.

**CONCLUSION**

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of A Defective Response (Form PCT/DO/EO/916) requiring submission of an oath or declaration acceptable under 37 CFR 1.497.



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King & Spalding LLP  
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In re Application of :  
PRESTWICH et al. :  
Serial No.: 10/556,693 :  
PCT No.: PCT/US04/14965 :  
Int. Filing Date: 13 May 2004 : DECISION ON PETITION  
Priority Date: 15 May 2003 :  
Attorney's Docket No.: 67934-8007.US00 : UNDER 37 CFR 1.181  
For: ANTI-ADHESION COMPOSITES AND METHODS:  
OF USE THEREOF

This decision is in response to applicant's "Petition to Withdraw Holding of Abandonment under 37 CFR 1.181(a)" filed 30 July 2008 in the United States Patent and Trademark Office (USPTO) in the above-captioned application.

### BACKGROUND

On 15 November 2005, applicant filed the U.S. national stage application for international application PCT/US04/14965, under 35 U.S.C. 371. These papers were assigned U.S. serial number 10/566,693.

On 08 June 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), was required.

On 19 February 2008, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to respond to the Notification of Missing Requirements within the time period set therein.

On 30 July 2008, in a response to the Notification of Abandonment, applicant submitted the instant petition accompanied by a copy of the declaration and the itemized postcard receipt with USPTO date-stamp 27 September 2006, indicating receipt of, *inter alia*, a declaration executed by the inventors.

### DISCUSSION

Applicant requests acceptance of the declaration submitted on 30 July 2008 in lieu of the original declaration, mailed on 27 September 2006.

As stated in section 503 of the Manual of Patent Examining Procedure (Rev. 6, September 2007)(MPEP):

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Applicant states that the executed declaration was originally filed on 27 September 2006 and provided a copy of the USPTO date-stamped postcard receipt indicating such. The postcard identifies the application number, applicant name and docket number. Among the items listed on the postcard receipt are "Declaration". The postcard is date-stamped by the USPTO "IAP15 Rec'd PCT/PTO 27 SEP 2006".

A review of the USPTO date-stamped, itemized postcard receipt indicates that the declaration was deposited with the USPTO on 27 September 2006. Applicant has now presented a copy of the papers originally filed on 27 September 2006 and provided a copy of the date-stamped postcard receipt. Thus, the evidence is sufficient to establish that the declaration was received in the USPTO on 27 September 2006 and that the postcard receipt indicating a date of 27 September 2006 was mailed by the USPTO. In addition, it is noted that the \$65 surcharge for filing the declaration after the thirty month period and the fee for a two month extension of time was paid on 27 September 2006. Accordingly, the Office accepts the copy of the papers as a replacement for the missing original documents with a deposit date of 27 September 2006 .

A review of the declaration indicates that it is unacceptable. The declaration contains two Page 3s and 4 Page 4s. It appears to be a composite declaration created from the combination of separately executed declarations. The declaration is not properly executed. It appears that either the attorney pieced together separate complete declarations into one composite declaration or that the inventors were presented with an incomplete declaration. While it is acceptable for applicants to execute separate copies of the declaration, the entire declaration, as executed by the inventor, must be submitted. "Where individual declarations are executed, they must be submitted as individual declaration rather than combined into one declaration." See MPEP 201.03. What is required is one declaration where all inventors have signed or separate complete declarations. The requirements of 37 CFR 1.497 (a) and (b) have not yet been met and the declaration is unacceptable as filed.

With respect to the deceased inventor Steven D. Gray, 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 executed by Janice Gray, which identifies her as executrix for deceased inventor Steven De. Gray and must provide the executrix's citizenship, residency and mailing address and identify the deceased inventor, providing his citizenship, former residency and mailing address on the declaration. The declaration must also identify all the joint inventors. Any person acting as a legal representative of a deceased or incapacitated inventor should ensure that he is properly acting in such capacity.

Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

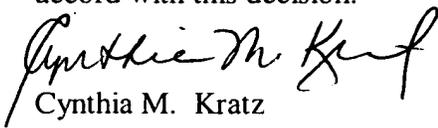
### CONCLUSION

Applicant's petition under 37 CFR 1.181 to accept a copy of the declaration originally filed on 27 September 2006 is **GRANTED**.

The 19 February 2008 Notification of Abandonment is hereby **VACATED**.

The copy of the declaration originally submitted on 27 September 2006 and resubmitted on 30 July 2008 is unacceptable for the reasons set forth above and does not meet the requirements of 37 CFR 1.497(a) and (b).

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing including issuance of a Notification of Defective Response in accord with this decision.



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07 JAN 2008

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29400 Lakeland Boulevard  
Patent Department  
Wickliffe OH 44092-2298

In re Application of :  
RICHARDS, et al. :  
Application No.: 10/556,697 : DECISION ON PETITION  
PCT No.: PCT/US04/14790 :  
Int. Filing Date: 11 May 2004 : UNDER 37 CFR 1.181  
Priority Date: 15 May 2003 :  
Attorney Docket No.: 3333-01 :  
For: POLYURETHANE DISPERSANTS :

This decision is in response to applicant's petition to withdraw the holding of abandonment filed 18 December 2007 in the United States Patent and Trademark Office (USPTO).

### BACKGROUND

On 11 May 2004, applicant filed international application PCT/US04/14790, which claimed priority of an earlier application filed 15 May 2003. 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, 15 November 2005.

On 15 November 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and an Information Disclosure Statement.

On 07 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 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 07 December 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 07 August 2006 within the time period set therein and that above-identified application was abandoned as to the United States.

On 18 December 2007, applicant filed the present petition to withdraw the holding of abandonment arguing that a response had been filed on 10 October 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 10 October 2006. The postcard identifies the application by serial number, title, applicant and attorney docket number. Among the items listed on the receipt is: "Executed Combined Declaration and Power of Attorney" The receipt is stamped "IAP6 Rec'd PCT/PTO 10 OCT 2006." The postcard has not been annotated in any way to indicate that any of the listed items were not received. Thus, it is clear that applicant filed an executed declaration and power of attorney on 10 October 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 07 December 2007 is hereby VACATED.

The application has an international filing date of 11 May 2004 under 35 U.S.C. 363 and will be given a date of **10 October 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.



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30 JAN 2008

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In re Application of KEMMERZELL et al	:	
U.S. Application No.: 10/556,698	:	
PCT Application No.: PCT/EP2004/005304	:	
Int. Filing Date: 17 May 2004	:	DECISION
Priority Date Claimed: 15 May 2003	:	
Attorney Docket No.: 2003P00751 WOUS	:	
For: CLEANING APPLIANCE, IN PARTICULAR	:	
VACUUM CLEANER	:	

This is in response to applicant's "Petition to Withdraw Holding of Abandonment Under 37 C.F.R. § 1.181" filed 07 January 2008.

**BACKGROUND**

On 17 May 2004, applicant filed international application PCT/EP2004/005304, which claimed priority of an earlier Germany application filed 15 May 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 25 November 2004. The thirty-month period for paying the basic national fee in the United States expired on 15 November 2005.

On 15 November 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 07 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 20 November 2006, applicant purportedly filed an executed declaration.

On 31 December 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 07 January 2008, applicant filed the present petition under 37 CFR 1.181.

**DISCUSSION**

The evidence of record is sufficient to establish that the declaration was originally filed on 20 November 2006. Specifically, the copy of the return postcard, which includes the declaration in its itemized contents and which bears a USPTO date stamp of 20 November 2006, serves as *prima facie* evidence that the declaration was received by the USPTO on 20 November 2006.

**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 17 May 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 20 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.



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1 2 MAY 2008



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VALLEY FORGE PA 19482-0980

In re Application of :  
KOKURYO et al. :  
Application No.: 10/556,699 : DECISION  
PCT No.: PCT/JP2004/006815 :  
Int. Filing Date: 13 May 2004 :  
Priority Date: 15 May 2003 :  
Attorney Docket No.: SUGI-104US :  
For: WIPER CONTROL METHOD AND WIPER :  
CONTROL DEVICE :

This decision is in response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 09 January 2008, which has properly been treated as a petition under 37 CFR 1.181. No petition fee is required.

#### **BACKGROUND**

On 13 May 2004, applicants filed international application PCT/JP2004/006815, which designated the United States and claimed a priority date of 15 May 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 25 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 15 November 2005.

On 15 November 2005, applicants filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 13 February 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 in compliance with 37 CFR 1.497(a)-(b) was required.

On 31 December 2007, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to respond the NOTIFICATION OF MISSING REQUIREMENTS mailed 13 February 2007.

On 09 January 2008, applicants filed the instant submission, which has properly been

treated as a petition under 37 CFR 1.181. The petition was accompanied by, *inter alia*, a copy of a declaration of inventors and a USPTO date-stamped postcard receipt.

**DISCUSSION**

Applicants have provided sufficient evidence to establish that on 10 April 2007 applicants filed a declaration of inventors. The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 10 April 2007 and which itemizes a "DECLARATION & POA (3 pg)" and identifies the above-captioned application number and attorney docket number. Further, practitioner states that the copy of the declaration filed 09 January 2008 is a copy of the declaration originally filed 10 April 2007. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 09 January 2008 may properly be accepted as originally received in the USPTO on 10 April 2007. The NOTIFICATION OF ABANDONMENT mailed 31 December 2007 is hereby vacated.

The declaration filed 10 April 2007 is in compliance with 37 CFR 1.497(a)-(b).

**CONCLUSION**

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

The NOTIFICATION OF ABANDONMENT mailed 31 December 2007 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

/Daniel Stemmer/

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 Hartford, CT 06103-3495

In re Application of	:	
Manny et al	:	DECISION ON
Application No.: 10/556,701	:	
PCT No.: PCT/AU04/000167	:	
Int. Filing Date: 12 May 2004	:	PETITION UNDER
Priority Date: 12 May 2003	:	
Attorney Docket No.: 97674-00013	:	
For: Barrier Release Mechanism	:	37 CFR 1.181

This decision is in response to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE NOTICE TO FILE MISSING PARTS," filed on 04 February 2008, which is being treated as a petition under 37 CFR 1.181. Applicants have submitted, inter alia, a copy of the 16 April 2007 PTO stamped itemized postcard receipt. The itemized postcard lists, inter alia, the following item: Executed Declaration.

### **BACKGROUND**

On 10 November 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 no executed Declaration or Oath was provided with the transmittal letter at such time.

On 20 February 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by the International application number and international filing date. .. 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 above must be submitted within two (2) months from the date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 31 December 2007, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) which indicated that the application is abandoned because applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905) mailed 02/20/2007 within the time period set therein.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 31 December 2007, applicants submitted on 04 February 2008 the instant petition requesting withdrawal of the Notice of Abandonment. In support of the request, applicants have provided a copy of the returned/stamped receipt card acknowledging a receipt date of 16 April 2007, within the time period of response.

### DISCUSSION

Applicants' present petition accompanied by a copy of the following documents, filed purportedly with the USPTO as indicated in the stamped postcard:

- (1) Response to Notification to File Missing Requirements
- (2) Declaration, Petition & Power of Attorney

The postcard lists the above items and bears a USPTO date of stamp as April 16, 2007.

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that a Declaration was deposited with the U.S. Patent and Trademark Office on 16 April 2007.

Accordingly, the date of receipt for the Declaration is 16 April 2007, which is considered timely. Therefore, the instant application has been improperly abandoned.

### DECISION

The petition under 37 CFR 1.181 is **GRANTED**. The Notification of Abandonment (PCT/DO/EO/909) mailed 31 December 2007 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 **16 April 2007**.



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23 JAN 2008



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In re Application of	:	
ALIHODZIC et al.	:	
Application No.: 10/556,709	:	DECISION ON
PCT No.: PCT/EP2004/005086	:	
Int. Filing Date: 11 May 2004	:	PETITION
Priority Date: 13 May 2003	:	
Attorney Docket No.: PB60256	:	
For: NOVEL 14 AND 15 MEMBERED	:	
RING COMPOUNDS	:	

This decision is in response to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181" filed 09 January 2008 in the United States Patent and Trademark Office (USPTO).

**BACKGROUND**

On 11 May 2004, applicant filed international application PCT/EP2004/005086, which designated the U.S. and claimed a priority date of 13 May 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 25 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 November 2005 (13 November 2005 being a Sunday).

On 10 November 2005, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage under 35 U.S.C. 371 accompanied by, *inter alia*, the U.S. Basic National Fee.

On 05 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 a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required. The NOTIFICATION OF MISSING REQUIREMENTS set a two-month extendable time period.

On 02 January 2008, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 05 June 2006 within the time period set therein.

On 09 January 2008, applicant filed the instant "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a)".

### DISCUSSION

The petition filed 09 January 2008 requests that the copies of the declarations accompanying the petition be accepted as having been received on 19 June 2006 pursuant to 37 CFR 1.8(b).

37 CFR 1.8(b) states

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Items (1)-(3) have been satisfied. Therefore, the declarations received on 09 January 2008 may properly be accepted as originally received in the USPTO on 19 June 2006. Accordingly, the NOTIFICATION OF ABANDONMENT mailed 02 January 2008 is hereby VACATED.

The declarations of inventors filed 19 June 2006 are in compliance with 37 CFR 1.497(a)-(b).

### DECISION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 02 January 2008 is hereby VACATED.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

~~/Daniel Stemmer/~~

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# UNITED STATES PATENT AND TRADEMARK OFFICE

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KLARQUIST SPARKMAN, LLP  
121 SW SALMON STREET  
SUITE 1600  
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant : Kenji Suzuki : DECISION ON REQUEST FOR  
Patent Number : 7636149 : RECALCULATION of PATENT  
Issue Date : 12/22/2009 : TERM ADJUSTMENT IN VIEW  
Application No : 10/556,712 : OF WYETH AND NOTICE OF INTENT TO  
Filed : 11/09/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **919** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



20 JUN 2006

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SNELL & WILMER  
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400 EAST VAN BUREN  
PHOENIX, AZ 85004-2202

In re Application of CLAROT	:	
U.S. Application No.: 10/556,738	:	
PCT Application No.: PCT/US04/13388	:	
Int. Filing Date: 30 April 2004	:	DECISION
Priority Date Claimed: 30 April 2003	:	
Attorney Docket No.: 33205.1793	:	
For: COLD REMEDY COMPOSITION	:	
COMPRISING ZINC SALTS	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 14 November 2005.

**BACKGROUND**

On 30 April 2004, applicant filed international application PCT/US04/13388, which claimed priority of an earlier United States application filed 30 April 2003. The thirty-month period for paying the basic national fee in the United States expired on 30 October 2005.

International application PCT/US04/13388 became abandoned as to the United States for failure to timely pay the basic national fee.

On 14 November 2005, applicant filed the present petition under 37 CFR 1.137(b).

**DISCUSSION**

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

### CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.



Bryan Tung  
PCT Legal Examiner  
PCT Legal Office

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16 JUN 2006

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Phoenix AZ 85004-2202

In re Application of	:	
CLAROT	:	
Application No.: 10/556,739	:	DECISION ON
PCT No.: PCT/US2004/013421	:	
Int. Filing Date: 30 April 2004	:	PETITION UNDER
Priority Date: 30 April 2003	:	
Attorney Docket No.: 33205.1893	:	37 CFR 1.137(b)
For: CHEWABLE LOZENGE COLD REMEDY	:	
COMPOSITION AND METHOD FOR MAKING SAME	:	

This decision is in response to applicant's submission filed 14 November 2005.

**BACKGROUND**

On 30 April 2004, applicant filed international application PCT/US2004/013421 which designated the U.S. and claimed a priority date of 30 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 18 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 October 2005 (30 October 2005 being a Sunday).

On 14 November 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 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 14 November 2005.

As to item (2), applicant submitted the petition fee on 14 November 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.



Daniél Stemmer

Legal Examiner

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03 APR 2008

27476  
NOVARTIS VACCINES AND DIAGNOSTICS INC.  
Intellectual Property R338  
P.O. Box 8097  
Emeryville, CA 94662-8097

In re Application of :  
ZIMMERMAN *et al* :  
U.S. Application No.: 10/556,765 :  
PCT No.: PCT/US2004/014830 :  
Int. Filing Date: 12 May 2004 :  
Priority Date: 13 May 2003 :  
Attorney Docket No.: PP020032.0004 :  
For: METHODS OF MODULATING :  
METASTASIS AND SKELETAL :  
RELATED EVENTS RESULTING :  
FROM METASTASES :

**DECISION ON  
PETITION UNDER  
37 CFR 1.137(b)**

Applicants' petition to revive under 37 CFR 1.137(b) filed on 22 January 2008 is hereby **GRANTED** as follows:

A declaration in compliance with 37 CFR 1.497(a) and (b) was provided which is the appropriate response. The petition fee of \$1,540.00 was provided. 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.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 12 May 2004 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 22 January 2008.

This application is being forwarded to the Office of Patent Application Processing for further processing.

*James Thomson*  
James Thomson  
Attorney Advisor  
Office of PCT Legal Administration

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06 JUN 2007



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REINHART BOERNER VAN DEUREN P.C.  
2215 PERRYGREEN WAY  
ROCKFORD IL 61107

In re Application of	:	
BOGAERTS, Georges et al.	:	
Application No.: 10/556,770	:	DECISION
PCT No.: PCT/BE2004/000073	:	
Int. Filing Date: 17 May 2004	:	ON REQUEST UNDER
Priority Date: 16 May 2003	:	
Attorney's Docket No.: 505014	:	37 CFR 1.497(d)
For: MEDICAL DEVICE USING A COILED	:	
ELECTRODE	:	

This decision is in response to applicants' "Petition For Correction of Inventorship," filed in the United States Patent and Trademark Office on 13 February 2007. It has been treated as a petition under 37 CFR 1.497(d).

### **BACKGROUND**

On 17 May 2004, applicants filed international application PCT/BE2004/000073, which claimed a priority date of 16 May 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 25 November 2004. The deadline for payment of the basic national fee in the United States was midnight on 16 November 2005.

On 16 November 2005, applicants filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee.

On 18 December 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the search fee, examination fee or oath or declaration were required.

On 13 February 2007, applicants filed a declaration of the inventor and a request under 37 CFR 1.497(d).

### **DISCUSSION**

Applicants file this request to remove Georges Bogaerts as an inventor.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in

the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Item (2) has been met. The processing fee set forth in §1.17(i) has been paid.

Item (1) has not been satisfied. Applicants have provided a statement from the person being removed as an inventor, that any error in inventorship occurred without deceptive intention on his part. However, applicants have provided an additional statement by the inventor in a language other than English and have not furnished a translation. A translation of the letter labeled "Annex 2C" is required.

Item (3) has not been satisfied. Office records indicate that an originally named applicant executed an assignment. If an originally named applicant has executed an assignment, the consent of the assignee is required. If none of the originally named applicants have executed an assignment, then that should be stated.

### CONCLUSION

For the above reasons, applicants' request under 37 CFR 1.497(d) is **REFUSED**.

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 Request Under 37 CFR 1.497(d)". 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.



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0 1 OCT 2007

REINHART BOERNER VAN DEUREN P.C.  
2215 PERRYGREEN WAY  
ROCKFORD IL 61107

In re Application of	:	
BOGAERTS, Georges et al.	:	
Application No.: 10/556,770	:	DECISION
PCT No.: PCT/BE2004/000073	:	
Int. Filing Date: 17 May 2004	:	ON REQUEST UNDER
Priority Date: 16 May 2003	:	
Attorney's Docket No.: 505014	:	37 CFR 1.497(d)
For: MEDICAL DEVICE USING A COILED	:	
ELECTRODE	:	

This decision is in response to applicants' "Response to Decision On Request Under 37 CFR 1.497(d)," filed in the United States Patent and Trademark Office on 18 July 2007.

**BACKGROUND**

On 06 June 2007, the Office mailed Decision On Request Under 37 CFR 1.497(d), refusing applicants' request. The decision set a two month extendable time period for response.

On 19 June 2007, the Office mailed Withdrawal of Previously Sent Notice and Notification of Defective Response (Form PCT/DO/EO/916). The Notification set a one month non-extendable time limit for response.

On 18 July 2007, applicants submitted this renewed request under 37 CFR 1.497(d).

**DISCUSSION**

On 19 June 2007, the Office mailed a Notification of Defective Response (Form PCT/DO/EO/916) set a one month time limit for response. This time limit contradicted the Decision on Request mailed 06 June 2007. As it is in conflict, the Notification of Defective Response is **VACATED**.

Applicants filed this request to remove Georges Bogaerts as an inventor.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Item (2) has been met. The processing fee set forth in §1.17(i) has been paid.

Item (1) has been satisfied. Applicants have provided a statement from the person being removed as an inventor and have provided a translation of the second statement from the inventor.

Item (3) has not been satisfied. According to Office records, this application has had three assignees. Georges Bogaerts assigned his interests in the application to Andre Faure on 15 January 2005. Andre Faure has signed two assignments. The first, signed 12 July 2005, is for 49% of Faure's interests in the application. The second assignment of Andre Faure is to Trod Medical and does not explicitly state the percentage of ownership. See 37 CFR 3.73(c)(2). Neither consent of the assignee acknowledges that each assignee is only a partial assignee nor identifies the assignees' percentage ownership in this application. See *Id.*

### CONCLUSION

For the above reasons, applicants' request under 37 CFR 1.497(d) is **REFUSED**.

The Notification of Defective Response (Form PCT/DO/EO/916) mailed 19 June 2007 is **VACATED**.

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 Request Under 37 CFR 1.497(d)". 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.



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28 JUL 2008



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2215 PERRYGREEN WAY  
ROCKFORD IL 61107

In re Application of	:	
BOGAERTS, Georges et al.	:	
Application No.: 10/556,770	:	DECISION
PCT No.: PCT/BE2004/000073	:	
Int. Filing Date: 17 May 2004	:	ON REQUEST UNDER
Priority Date: 16 May 2003	:	
Attorney's Docket No.: 505014	:	37 CFR 1.497(d)
For: MEDICAL DEVICE USING A COILED	:	
ELECTRODE	:	

This decision is in response to applicants' "Renewed Request Under 37 CFR 1.497(d)," filed in the United States Patent and Trademark Office on 29 November 2007.

**BACKGROUND**

On 01 October 2007, the Office mailed Decision On Request Under 37 CFR 1.497(d), refusing applicants' request. The decision set a two month extendable time period for response.

On 29 November 2007, applicants submitted this renewed request under 37 CFR 1.497(d).

**DISCUSSION**

Applicants filed this request to remove Georges Bogaerts as an inventor.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1) and (2) were previously satisfied.

Item (3) has not been satisfied. According to Office records, this application has had three assignees. Georges Bogaerts assigned his interests in the application to Andre Faure on 15 January 2005. Andre Faure has signed two assignments and Universite de Franche-Comte has signed an assignment. On 12 July 2005, Faure assigned 49% of his interests in the application to Universite de Franche-Comte. On 24 July 2006, Andre Faure assigns an unspecified portion of his interest in the patent application to Trod Medical. On 10 September 2007, Universite de Franche-Comte transfers their interest in the patent application to Trod Medical. The consent of

the assignee signed by Trod Medical alleges that it is the assignee of the entire right, title and interest in the application, but that assertion is not supported by a reading of the assignments.

**CONCLUSION**

For the above reasons, applicants' request under 37 CFR 1.497(d) is **REFUSED**.

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 Request Under 37 CFR 1.497(d)". 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.

/Erin P. Thomson/

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 Rockford, IL 61107

In re Application of :  
 FAURE, André :  
 U.S. Application No.: 10/556,770 :  
 PCT No.: PCT/BE2004/000073 :  
 Int. Filing Date: 17 May 2004 :  
 Priority Date: 16 May 2003 :  
 Docket No.: 505014 :  
 For: MEDICAL DEVICE USING A COILED: :  
 ELECTRODE :

## DECISION

This is a decision on the renewed request to remove an inventor in the above-captioned application pursuant to 37 CFR 1.497(d) filed 26 September 2008.

### BACKGROUND

On 28 July 2008, a decision dismissing applicants' petition pursuant to 37 CFR 1.497(d) was mailed. Applicants were given two months to respond with extensions of time available.

On 26 September 2008, applicants filed the renewed petition along with, *inter alia*, a copy of an assignment dated 19 September 2008 and a consent of assignee to deletion of inventor.

### DISCUSSION

Applicants request to remove Georges Bogaerts as an inventor.

Applicants previously completed items (1) and (2) of 37 CFR 1.497(d). Item (3) of 37 CFR 1.497(d)<sup>1</sup> was not satisfied as it appeared that Andre Faure retained interest in the above-captioned application.

In the renewed petition, applicants submitted a copy of a new assignment executed by Andre Faure granting Trod Medical his entire right in the subject application. Moreover, applicants submitted a "Consent of Assignee to Deletion of Inventor" signed by Mr. Faure as CEO of Trod Medical and in his individual capacity.

---

<sup>1</sup> 37 CFR 1.497(d)(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).

10/556,770

The assignment sufficiently shows a transfer of all of Mr. Faure's interest in the subject application to Trod Medical. The position of CEO is presumed to have the authority to sign for a corporation. See § 324 MPEP. Item (3) of 37 CFR 1.497(d) is now satisfied.

All items of 37 CFR 1.497(d) are now complete.

### CONCLUSION

Applicants' request to remove Georges Bogaerts as an inventor in the above-captioned application pursuant to 37 CFR 1.497(d) is **GRANTED**.

The declaration filed 13 February 2007 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 17 May 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 13 February 2007.

This application is being forwarded to DO/EO/US for mailing a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903)



James Thomson

Attorney Advisor  
Office of PCT Legal Administration

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SUITE 500  
3000 K STREET NW  
WASHINGTON DC 20007

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In re Application of :  
Erick M. Carrieria : DECISION ON PETITION  
Application Number: 10/556777 : TO WITHDRAW HOLDING OF  
Filing Date: 11/15/2005 : ABANDONMENT  
Attorney Docket Number: 023174- :  
0145

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed on July 17, 2008.

The application was held abandoned for failure to timely reply to the Office action requiring restriction and/or election mailed on October 10, 2007, which set a one (1) month shortened statutory period for reply. Notice of Abandonment was mailed on June 27, 2008.

Petitioner asserts that a proper response was in fact timely filed. In support of the petition, petitioner submitted, *inter alia*, a copy of a date-stamped post card receipt acknowledging receipt of a "Response to Election of Species (7 pgs.)" bearing an "Office-date" stamp of November 9, 2007, as well as a copy of the aforementioned amendment, which includes an election of species. The post card identifies the application by application number, applicant's name, invention title, and attorney docket number.

Petitioners' response to the Office action requiring restriction and/or election mailed on September 19, 2007, is not of record in the file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the reply to the Office action mailed on October 10, 2007 was

timely filed in the Office but was not matched with the application file.

As such, the showing of record is that there is no abandonment in fact. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file will be referred to Technology Center Art Unit 1625 for entry of the response and further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions



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MERCK AND CO., INC  
P O BOX 2000  
RAHWAY NJ 07065-0907

In re Application :  
Biftu, et al. :  
Application No. 10/556,805 : PATENT TERM ADJUSTMENT  
Filed: November 14, 2005 :  
Dkt. No.: 21404P ::

This decision is in response to the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed April 16, 2009.

The Determination of Patent Term Adjustment under 35 USC 154(b), mailed January 15, 2009, indicated a patent term adjustment to date of 612 days. Applicant argues that the application is entitled to additional adjustment pursuant to 35 USC 154(b)(1)(B).

Applicant does not dispute the adjustment of 612 days. Instead, applicant contests the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is

advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

In view thereof, at the time of allowance, the application is entitled to an overall adjustment of 612 days.

The required \$200.00 patent term adjustment application fee has been charged to applicants' deposit account, as authorized.

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 matter should be directed to the undersigned at (571) 272-3205.



Alesia M. Brown  
Petitions Attorney  
Office of Petitions



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SIEMENS CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
170 WOOD AVENUE SOUTH  
ISELIN, NJ 08830

Mail Date: 05/05/2010

<b>Applicant</b>	: Wolfgang Ens	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7621179	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/556,829	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 11/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **360** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



01 DEC 2006

Thomson Licensing, Inc.  
Patent Operations  
Po Box 5312  
Princeton, NJ 08543-5312

In re Application of :  
BUCHLER, Christian :  
Application No.: 10/556,832 :  
PCT No.: PCT/EP04/05198 :  
Int. Filing Date: 14 May 2004 :  
Priority Date: 16 May 2003 :  
Attorney Docket No.: PD030051 :  
For: APPARATUS FOR READING AND/OR :  
WRITING OPTICAL RECORDING :  
MEDIA :

DECISION ON PETITION  
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 16 November 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith  
Attorney-Advisor  
Office of PCT Legal Administration  
Tel: (571) 272-3298  
Fax: (571) 273-0459



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KENYON & KENYON LLP  
ONE BROADWAY  
NEW YORK, NY 10004

Mail Date: 04/21/2010

<b>Applicant</b>	: Anton Dukart	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7603950	: RECALCULATION of PATENT
<b>Issue Date</b>	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/556,838	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 12/08/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **90** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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Scott R Foster  
Pandiscio & Pandiscio  
470 Totten Pond Road  
Waltham MA 02451-1914

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AUG 01 2008

Applicant: Gobel  
Appl. No.: 10/556,839  
International Filing Date: February 19, 2004  
Title: TRACHEAL VENTILATION DEVICE  
Attorney Docket: KUCH-12  
Pub. No.: US 2007/0095351 A1  
Pub. Date: May 3, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 22, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error wherein the wrong application was published.

37 CFR 1.221 (b) is applicable “only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable.” A material mistake must affect the public’s ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.<sup>1</sup>

The instant request does not identify a mistake in the publication made by the Office under 37 CFR 1.221(b) with respect to publishing the wrong application. The application was correctly printed as filed, as applicant requested to enter the National Stage for PCT/US2004/004797.

Applicant should consider filing a petition under 37 CFR 1.182 including the fee to correct the application number on the PTO – 1390 with the PCT Office.

---

<sup>1</sup>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).

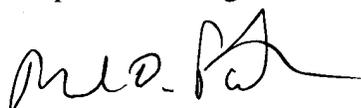
The applicant is advised that a “request for republication of an application previously published” may be filed under 37 CFR 1.221(a). Such a request for republication “must include a copy of the application compliance with the Office’s electronic filing system requirements and be accompanied by the 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

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

02 SEP 2008



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Scott R Foster  
Pandiscio & Pandiscio  
470 Totten Pond Road  
Waltham MA 02451-1914

In re Application of	:	
GOBEL	:	
Application No.: 10/556,839	:	DECISION
PCT No.: PCT/US2004/004797	:	
Int. Filing Date: 06 May 2004	:	
Priority Date: 15 May 2003	:	
Attorney's Docket No.: KUCH-12	:	
For: TRACHEAL VENTILATION DEVICE	:	

This decision is in response to applicant's "REQUEST FOR CORRECTION OF FILING RECEIPT" filed in the United States Patent and Trademark Office (USPTO) on 25 May 2007, which has properly been treated as a petition under 37 CFR 1.181.

**BACKGROUND**

On 15 November 2005, applicant filed a Transmittal Letter for entry into the national stage in the United States (Form PTO-1390), which was accompanied by, *inter alia*, the basic national fee and an unexecuted declaration of the inventor.

On 07 November 2006, 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 12 January 2007, applicants filed a submission including an executed declaration of the inventor.

On 25 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AN 37 CFR 1.495 (Form PCT/DO/EO/903) according the application a 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date and a 35 U.S.C. 371 date of 12 January 2007.

On 25 May 2007, applicant submitted the instant REQUEST FOR CORRECTION OF FILING RECEIPT," which has properly been treated as a petition under 37 CFR 1.181.

### DISCUSSION

The Transmittal Letter filed 15 November 2005 indicated the international application number as PCT/US2004/004797, the international application filing date as 06 May 2004, and the priority date claimed as 15 May 2003. However, the international filing date and priority date claimed indicated do not correspond to PCT/US2004/004797. The NOTICE OF ACCEPTANCE mailed 25 January 2007 includes this inconsistency. Accordingly, it is in error and is hereby VACATED.

A petition under 37 CFR 1.182 is required to resolve the above-stated inconsistency. (The requirements are set forth below). Accordingly, the petition under 37 CFR 1.181 filed 25 May 2007 is not sufficient.

### CONCLUSION

For the reasons set forth above, the NOTICE OF ACCEPTANCE mailed 25 January 2007 is VACATED.

For the reasons set forth above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available. A proper response would include a petition under 37 CFR 1.182, including the petition fee set forth in 37 CFR 1.17(f), to correct the Transmittal Letter (The petition should set forth the specific circumstances as to how and when the error was made and should set forth that the mistake was an inadvertent error without deceptive intent). **Failure to timely file a proper response will result in abandonment of the application.**

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

16 MAR 2010



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James M. Bagarazzi  
Dority & Manning, P. A.  
P. O. Box 1449  
Greenville SC 29602

In re Application of	:	
GOBEL	:	
Application No.: 10/556,839	:	DECISION
PCT No.: PCT/US2004/004797	:	
Int. Filing Date: 06 May 2004	:	
Priority Date: 15 May 2003	:	
Attorney's Docket No.: KUCH-12	:	
For: TRACHEAL VENTILATION DEVICE	:	

This decision is in response to applicant's "PETITION UNDER RULE 1.182 TO CORRECT INFORMALITIES IN APPLICATION" filed in the United States Patent and Trademark Office (USPTO) on 09 September 2008.

**BACKGROUND**

On 15 November 2005, applicant filed a Transmittal Letter for entry into the national stage in the United States (Form PTO-1390), which was accompanied by, *inter alia*, the basic national fee and an unexecuted declaration of the inventor.

On 07 November 2006, 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 12 January 2007, applicant filed a submission including an executed declaration of the inventor.

On 25 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AN 37 CFR 1.495 (Form PCT/DO/EO/903) according the application a 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date and a 35 U.S.C. 371 date of 12 January 2007.

On 25 May 2007, applicant submitted a "REQUEST FOR CORRECTION OF FILING RECEIPT," which was properly treated as a petition under 37 CFR 1.181.

On 02 September 2008, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.181. The decision indicated that there was an inconsistency in the Transmittal Letter filed 15 November 2005 in that the indicated international filing date (06 May 2004) and priority date (15 May 2003) did not correspond with the indicated international application number (PCT/US2004/004797) and that a proper petition under 37 CFR 1.182 was required in order to resolve this inconsistency. The decision also vacated the NOTICE OF ACCEPTANCE mailed 25 January 2007 (which reflected the inconsistency).

On 09 September 2008, applicants filed a petition under 37 CFR 1.182.

On 27 January 2010, a Final Office action was mailed.

### DISCUSSION

The petition fee of \$400 has been charged to Deposit Account 16-0221.

A review of the application file including counsel's statements in the instant submission, as well as a review of the USPTO file for PCT/US2004/004797, reveals that the indication of international application PCT/US2004/004797 was incorrect, and that the present application should in fact be the national stage application of international application PCT/EP2004/004797.

### CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.182 is **GRANTED**.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail 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.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for processing in accordance with this decision including mailing of a new NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 and Filing Receipt indicating the international application as PCT/EP2004/004797.

The time period set forth in the Final Office action mailed 27 January 2010 continues to run.

/Daniel Stemmer/

Daniel Stemmer  
Legal Examiner  
PCT Legal Affairs  
Office of Patent Cooperation Treaty  
Legal Administration  
Telephone: (571) 272-3301



13 DEC 2005

Daphne Burton  
McDermott, Will & Emery, LLP  
2049 Century Park East, 34<sup>th</sup> Floor  
Los Angeles, CA 90067

In re Application of	:	
LUO, Jingxun	:	
U.S. Application No.: 10/556,850	:	
PCT No.: PCT/CN03/01034	:	DECISION ON PETITION
Int. Filing Date: 03 December 2003	:	
Priority Date: 05 December 2002	:	
Attorney Docket No.: 74257-011	:	
For: A TRIANGULAR OVERHEAD TERRACE	:	
ASSEMBLY	:	

This decision is in response to applicant's facsimile communication dated 16 November 2005, which is being treated as a Petition under 37 CFR 1.181 and 37 CFR 1.137(b).

**BACKGROUND**

On 03 December 2003, applicant filed international application PCT/CN03/01034 which claimed a priority date of 05 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 01 July 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 05 June 2005.

On 16 November 2005, applicant filed the present petition.

A. Petition under 37 CFR 1.181

Applicant states in their present petition that the basic national fee, the transmittal letter to enter the United States national stage, a translation of the international application, and a petition to revive under 37 CFR 1.137(b) were received by the USPTO on 07 July 2005. A review of the application file reveals that the papers are not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by the title of invention; applicant's name; and docket number. The evidence submitted by applicants, consisting of a postcard receipt with a PCT/PTO mailroom date stamp of 07 July 2005 which itemizes all the papers filed on said date. The postcard receipt bearing the applicant's name, title of invention, and attorney docket number is sufficient to indicate that the above papers were received on 07 July 2005.

B. Petition under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response was the payment of the basic national fee of \$150.00.

As to Item (2), the appropriate petition fee of \$750.00 as required by 37 CFR 1.17 will be charged to Deposit Account no. 50-1946.

With regard to Item (3), applicant's statement that "the steps need to be taken to enter the National Phase were overlooked and the application was therefore unintentionally abandoned" does not comply with 37 CFR 1.137(b)(3). However, the statement will be accepted and construed 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." If this is an incorrect interpretation in view of the rules, Petitioner is required to provide a statement to that effect.

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

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 1.181 is GRANTED.

The petition under 37 CFR 1.137(b) is GRANTED.

The above-identified application has a receipt date of 07 July 2005.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the \$65 surcharge for filing the oath or declaration after the thirty-month period is required.



Anthony Smith  
Attorney-Advisor  
Office of PCT Legal Administration  
Tel: (571) 272-3298  
Fax: (571) 273-0459



**MORRISON & FOERSTER LLP  
425 MARKET STREET  
SAN FRANCISCO CA 94105-2482**

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**AUG 13 2007**

**OFFICE OF PETITIONS**

In re Application of

**VON STEIN, Petra et al.**

Application No. 10/556,857

Filed: October 20, 2006

Attorney Docket No. 514862002900

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 18, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael R. Ward 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.

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: **PETRA VON STEIN  
BATMAN STENS VAG 23  
SPANGA, S-163 41  
SWEDEN**

cc: **LISA A. HAILE, J.D., PH.D  
DLA PIPER US LLP  
4365 EXECUTIVE DRIVE  
SUITE 1100  
SAN DIEGO, CA 92121**


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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/556,857	10/20/2006	Petra Von Stein	514862002900

20872  
 MORRISON & FOERSTER LLP  
 425 MARKET STREET  
 SAN FRANCISCO, CA 94105-2482

**CONFIRMATION NO. 7072**


\*OC000000025145445\*

Date Mailed: 08/02/2007

**NOTICE REGARDING CHANGE OF POWER OF ATTORNEY**

This is in response to the Power of Attorney filed 06/18/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY



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KUSNER & JAFFE  
HIGHLAND PLACE SUITE 310  
6151 WILSON MILLS ROAD  
HIGHLAND HEIGHTS, OH 44143

Mail Date: 04/21/2010

<b>Applicant</b>	: Ilkka Olavi Laitinen	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7666281	: RECALCULATION of PATENT
<b>Issue Date</b>	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/556,865	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 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 **650** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



It is also noted that the Declaration filed on 08 December 2008 appears to have been assembled by combining separately signed sheets into a single document. MPEP 201.03 explains in part that

While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

In view of this policy, it would not be appropriate to accept the declaration filed on 08 December 2008. An oath or declaration in compliance with 37 CFR 1.497(a) and (b) is required.

#### **DECISION**

Applicants' request is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

/George Dombroske/  
George Dombroske  
PCT Legal Examiner  
Office of PCT Legal Administration  
Tel: (571) 272-3283  
Fax: (571) 273-0459

18 SEP 2009



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BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO IL 60610

In re Application of	:	
Kismir et al.	:	
Application No.: 10/556,866	:	
PCT No.: PCT/SE2004/000706	:	DECISION
Int. Filing Date: 10 May 2004	:	
Priority Date: 14 May 2003	:	
Attorney Docket No.: 12400-052	:	
For: Air Bag	:	

This is in response to the petition under 37 CFR 1.182 filed on 21 August 2009.

**DISCUSSION**

In a Decision mailed on 07 August 2009, applicants were advised that

Review of the application file reveals that the Transmittal Letter filed on 14 November 2005 was directed toward international application "PCT/SE2004/000707," but other indicia (e.g., international filing date, priority date, title and inventive entity) were consistent with PCT/SE2004/000706. As such, it is not sufficiently clear which international application was intended to enter the national stage. Resolution of this discrepancy would require a formal petition under 37 CFR 1.182. Petitioner is required to explain this discrepancy and clarify which international application was intended to enter the national stage under 35 U.S.C. 371.

...

It is also noted that the Declaration filed on 08 December 2008 appears to have been assembled by combining separately signed sheets into a single document... In view of this policy, it would not be appropriate to accept the declaration filed on 08 December 2008. An oath or declaration in compliance with 37 CFR 1.497(a) and (b) is required.

**In response**, petitioner states (inter alia) that "International Application Number (PCT/SE2004/000707) identified on the Transmittal Letter filed on 14 November 2005 contained a typographical error," and that "International Application Number PCT/SE2004/000706 is the correct International Application Number. This number and correction is consistent with the international filing date, priority date, inventive entity, and Declaration concurrently submitted with and identified in the Transmittal Letter." Based on the totality of the evidence and circumstances presented, it would be appropriate to accept petitioner's statement to the effect that this application was intended as the national stage under 35 U.S.C. 371 of PCT/SE2004/000706.

Petitioner has also submitted four declaration documents. Inspection of the document signed by Altay Kismir reveals that it does not nominate the other inventors named in the published international application and on the other declarations. The page signed by Conrad Fricke appears to have been faxed, whereas the other pages of that declaration do not. This is

also true of the declaration signed by Paul Jeram. The faded page signed by Jonathan Moore appears to be a copy of the corresponding page filed on 08 December 2008, which was later combined with two sheets to form the document submitted on 21 August 2009. It is unclear whether applicants have submitted complete copies of the declarations as originally signed by the inventors, and whether each such declaration named the entire inventive entity at the time it was signed. Therefore, it would not be appropriate to accept the declaration for purposes of compliance with 37 CFR 1.497(a) and (b).

**DECISION**

The petition under 37 CFR 1.182 is **GRANTED**.

The declaration filed on 21 August 2009 is **NOT ACCEPTED** for purposes of compliance with 37 CFR 1.497(a) and (b), without prejudice.

Applicant is required to file an acceptable declaration within either (1) the remaining period for response to the Decision mailed on 07 August 2009, as extendable under 37 CFR 1.136(a), or (2) **ONE MONTH** from the mailing date of this decision (**NOT** extendable under 37 CFR 1.136(a)), whichever expires later. This period for response is analogous to that which would be set by a Notification of Defective Response (Form PCT/DO/EO/916). Failure to timely file an acceptable 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/  
George Dombroske  
PCT Legal Examiner  
Office of PCT Legal Administration  
Tel: (571) 272-3283  
Fax: (571) 273-0459



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P.O. BOX 10395  
CHICAGO IL 60610

In re Application of	:	
Kismir et al.	:	
Application No.: 10/556,866	:	
PCT No.: PCT/SE2004/000706	:	DECISION
Int. Filing Date: 10 May 2004	:	
Priority Date: 14 May 2003	:	
Attorney Docket No.: 12400-052	:	
For: Air Bag	:	

This is in response to the "Response to Decision" filed on 15 October 2009.

**DISCUSSION**

In a Decision mailed on 18 September 2009, the declaration filed on 21 August 2009 was not accepted, without prejudice, because

Petitioner has also submitted four declaration documents. Inspection of the document signed by Altay Kismir reveals that it does not nominate the other inventors named in the published international application and on the other declarations. The page signed by Conrad Fricke appears to have been faxed, whereas the other pages of that declaration do not. This is also true of the declaration signed by Paul Jeram. The faded page signed by Jonathan Moore appears to be a copy of the corresponding page filed on 08 December 2008, which was later combined with two sheets to form the document submitted on 21 August 2009. It is unclear whether applicants have submitted complete copies of the declarations as originally signed by the inventors, and whether each such declaration named the entire inventive entity at the time it was signed. Therefore, it would not be appropriate to accept the declaration for purposes of compliance with 37 CFR 1.497(a) and (b).

In response, petitioner has submitted four declaration documents. Taken together, these declarations are acceptable for purposes of compliance with 37 CFR 1.497(a) and (b). As such, it would now be appropriate to grant the requested relief.

**DECISION**

The declaration filed on 15 October 2009 is **ACCEPTED** for purposes of compliance with 37 CFR 1.497(a) and (b).

This application is being returned to the Office of Patent Application Processing for processing as the national stage under 35 U.S.C. 371 of PCT/SE2004/000706. The date of the application under 35 U.S.C. 371(c)(1), (2) and (4) is **15 October 2009**.

/George Dombroske/  
George Dombroske  
PCT Legal Examiner  
Office of PCT Legal Administration  
Tel: (571) 272-3283



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,901	02/02/2006	Mark Ashton	BJS-620-401	1869

23117 7590 01/26/2009  
NIXON & VANDERHYTE, PC  
901 NORTH GLEBE ROAD, 11TH FLOOR  
ARLINGTON, VA 22203

EXAMINER
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CHANDRAKUMAR, NIZAL S

ART UNIT	PAPER NUMBER
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1625

MAIL DATE	DELIVERY MODE
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01/26/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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JAN 26 2009

NIXON & VANDERHYE, PC  
901 NORTH GLEBE ROAD, 11TH FLOOR  
ARLINGTON VA 22203

In re Application of:	:	
Ashton et al.	:	
Serial No.: 10/556,901	:	
Filed: November 15, 2005	:	
Attorney Docket No.: <b>BJS-620-401</b>	:	
		<b>DECISION ON PETITION FOR COMPLETE OFFICE ACTION WITH DATE RESET</b>

This is in response to applicants' petition under 37 CFR. § 1.181(a), filed on December 18, 2008, for a complete Office action with date re-set.

A review of the file history shows that the examiner mailed a restriction requirement on November 19, 2008, setting a one-month shortened statutory time period for reply.

Applicants state that the action was incomplete in that the examiner's definitions of the subject matter of the examiner's groups 1 and 2 are the same. Thus, rendering Applicants points are well taken and the examiner will issue a new action consistent with this decision.

Applicants' 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 at 703-872-9306.

Marianne C. Seidel  
Quality Assurance Specialist  
Technology Center 1600



Rothwell, Figg, Ernst & Manbeck, P.C.  
1425 K Street, N.W.  
Suite 800  
Washington, DC 20005

**COPY MAILED**

**AUG 01 2007**

**OFFICE OF PETITIONS**

In re Application of :  
Matheus Christensen :  
Application No. 10/556,902 :  
Filed: November 15, 2005 :  
Attorney Docket No. 3211-114 :

DECISION ON PETITION  
TO WITHDRAW  
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 24, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Richard Wydeven 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.

Terri Williams  
Petitions Examiner  
Office of Petitions

cc: **Matheus Christensen**  
**Veddertoppen 61**  
**Sogne**  
**Norway**

cc: **Mechlift AS v/ Alf Torfinn Skeie**  
**Skeie**  
**Elken 4596**  
**Norway**


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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/556,902	11/15/2005	Matheus Christensen	3211-114

**CONFIRMATION NO. 1865**


\*OC000000025128243\*

6449  
 ROTHWELL, FIGG, ERNST & MANBECK, P.C.  
 1425 K STREET, N.W.  
 SUITE 800  
 WASHINGTON, DC 20005

Date Mailed: 08/01/2007

**NOTICE REGARDING CHANGE OF POWER OF ATTORNEY**

This is in response to the Power of Attorney filed 01/24/2007.

- 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.

*Lurri Williams*

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199  
 FORMER ATTORNEY/AGENT COPY



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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP  
901 NEW YORK AVENUE  
WASHINGTON D.C. 20001-4413

Applicant: Ruffieux  
Appl. No.: 10/556,909  
International Filing Date: May 12, 2004  
Title: LAYOUT FOR A TIME BASE  
Attorney Docket No.: 09894.0006.00  
Pub. No.: US 2007/0008041.A1  
Pub. Date: January 11, 2007

**COPY MAILED**  
**MAY 02 2008**  
**OFFICE OF PETITIONS**

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on March 12, 2007, for the above-identified application

The request is **granted-in-part**

Applicant requests that the application be republished because the patent application publication contains material errors, wherein the specification as originally filed now labeled as portions A-I and the preliminary amendment to the claims was not included in the publication.

37 CFR 1.221 (b) is applicable “only when the Office makes a **material mistake** which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable.” A material mistake must affect the public’s ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.<sup>1</sup>

The request by the Applicants to correct errors in the originally filed application is **GRANTED**.

The errors noted by requestor with respect to the preliminary amendment to the specification is **not** an Office error, therefore this request is **DISMISSED**.

The patent application publication does not include a mistake regarding the failure to include the preliminary amendment to the claims in the publication by the Office because patent application

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<sup>1</sup>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).

publications are not required to include preliminary amendments, according to 37 CFR 1.215(a),<sup>2</sup> which says the following, in part:

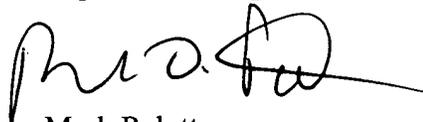
(a) . . . The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. **The patent application publication may also be based upon amendments** to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b), amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun. (emphasis added)

§ 1.215(c) says the following:

(c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment. The Office changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Until 2004, patent application publications were published as originally filed. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004) and MPEP 1121. Applicant did not file a specification, which incorporated the preliminary amendment. See Pre-Grant Publication Helpful Hint: File Continuation or Divisional Application with a New Specification and Copy of Oath or Declaration from Prior Application, 1251 Off. Gaz. Pat. Office Notices 54 (Oct. 9, 2001).

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



Mark Polutta  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of the Deputy Commissioner  
for Patent Examination Policy

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<sup>2</sup>Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

1 0 OCT 2007



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Staas & Halsey LLP  
1201 New York Avenue, N.W.  
Suite 700  
Washington, D.C. 20005

In re Application of	:	
SASAGAWA, et al.	:	
U.S. Application No.: 10/556,912	:	DECISION ON PETITION
PCT No.: PCT/JP04/06890	:	UNDER 37 CFR 1.182
International Filing Date: 14 May 2004	:	
Priority Date: 15 May 2003	:	
Attorney's Docket No.: 1806.1012	:	
For: HYDROGENATED	:	
COPOLYMER-CONTAINING LAMINATE	:	

This decision is issued in response to applicants' "Response to Notification of Defective Response" filed on 23 April 2007 which is being treated as a Petition Under 37 CFR 1.182. Additionally, this decision is in response to applicant's facsimile communication filed on 09 October 2007. The petitions seek to correct the name of record for the inventors Suk Hyun Sa and Dae Sik Kim (as listed on the international application) to Suk Han Sur and Dae Shik Kim (as listed on the declaration).

**BACKGROUND**

On 14 May 2004, applicants filed international application PCT/JP04/06890. The application claimed a priority date of 15 May 2003 and it designated the United States. The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 15 November 2005.

On 15 November 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; and a preliminary amendment.

On 12 June 2006, the United States 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 06 April 2007, applicants submitted an unsigned communication which included an executed declaration and a postcard receipt dated 27 June 2006.

On 09 April 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration was defective because the name of the sixth inventor on the declaration did not correspond with that inventor's name as set forth on the international application.

On 23 April 2007, applicants filed a "Response to Notification of Defective Response" which is being treated as a Petition under 37 CFR 1.182.

On 09 October 2007, applicants submitted a facsimile communication which was accompanied a copy of the declaration/power of attorney filed 27 June 2006 and a post card receipt dated 27 June 2006. These papers were treated as a petition under 37 CFR 1.181.

### DISCUSSION

#### A. Petition under 37 CFR 1.181

Applicants state in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 27 June 2006. A review of the present application reveals that the declaration and power of attorney in response to the Notice of Missing Requirements mailed 12 June 2006 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicants, title of invention, and serial/application number. The receipt itemizes declarations executed by the three joint-inventors. The receipt is stamped "Rec'd. OIPE 27 June 2006" across its face is sufficient to indicate that the declaration and power of attorney was in fact received in the Office on 27 June 2006.

#### B. Petition under 37 CFR 1.182

#### *Inventor Suk Han Sur*

In the published international application, the sixth inventor was identified as Suk Hyun Sa. On the declaration filed 27 June 2006, this inventor was identified as Suk Han Sur. With respect to corrections in an inventor's name, section 605.04(b) of the Manual Of Patent Examining Procedure ("MPEP") states the following:

Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 35 U.S.C. 1.182 together with an appropriate petition fee.

In this case, the discrepancy in the sixth inventor's name is more than a mere typographical error or a phonetic misspelling of the applicant's name; accordingly, a petition under 37 CFR 1.182 is required in order to correct the inventor's name as requested.

Applicants' petition includes the authorization to charge Deposit Account No. 19-3935 for required fees. Based on this authorization, Deposit Account No. 19-3935 will be charged the requisite petition fee of \$400. The petition explains the discrepancy in the inventor's name and that the spelling of the sixth inventor's has been changed. Accordingly, applicants' explanation of the difference in the spelling of the sixth inventor's name is accepted and noted for the record.

*Inventor Dae Shik Kim*

In the published international application, the seventh inventor was identified as Dae Sik Kim. On the declaration filed 27 June 2006, this inventor was identified as Dae Shik Kim. Applicant states that the discrepancy between the name of the seventh inventor indicated in the international application during the international phase and the name of the seventh inventor as it appears in the declaration is the result of a misspelling (typographical) 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 seventh inventor's name is accepted and noted for the record.

**CONCLUSION**

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

Applicants' petition under 37 CFR 1.182 to correct the name of record for the sixth and seventh inventor herein is **GRANTED**.

The correct name of the sixth named inventor is accepted as Suk Han Sur, as set forth on the declaration filed 27 June 2006.

The correct name of the seventh named inventor is accepted as Dae Shik Kim, as set forth on the declaration filed 27 June 2006.

Based on the correction of the inventor's names, the declaration filed on 27 June 2006 is acceptable under 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C, 371(c)(1), (c)(2), and (c)(4) is 27 June 2006.



Anthony Smith  
Attorney Advisor  
Office of PCT Legal Administration  
Telephone: (571) 272-3298  
Facsimile: (571) 273-0459



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MERCK AND CO., INC  
P O BOX 2000  
RAHWAY NJ 07065-0907

MAILED

AUG 17 2009

OFFICE OF PETITIONS

In re Patent No. 7,485,647 :  
Moriya et al. : DECISION ON APPLICATION  
Application No. 10/556932 : FOR PATENT TERM ADJUSTMENT  
Issue Date: 02/03/2009 :  
Filing or 371(c) Date: 11/16/2005 :  
Attorney Docket No. BY0025P :

This is a decision on the "APPLICATION FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705," filed March 2, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 529 days to 604 days. The application is properly treated under 37 CFR §1.705(d).

The request for reconsideration of patent term adjustment is **DISMISSED**.

On February 3, 2009, the above-identified application matured into US Patent No. 7,485,647 with a patent term adjustment of 529 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays occur on the same day. Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR 1.703(b), of 77 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 529 days overlap for a period of two (2) days only.

Patentees base the 77-day period on the November 16, 2005 date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements, and the patent having been issued on February 3, 2009, three years and 77 days later. Patentees aver that this 77 day period is under 37 CFR 1.702(b), and overlaps with the period of adjustment under 37 CFR 1.702(a) for a period of two (2) days, beginning on the day after the date that is three years after the date of receipt of 35 U.S.C. 371(c)(a), (c)(2) and (c)(4) requirements on November 17, 2008, and ending on the date that the Office mailed the Notice of Allowance, November 18, 2008.

Patentees do not dispute the period of adjustment due to examination delay of 529 days accorded pursuant to 37 CFR 1.702(a). An adjustment of 525 days was accorded pursuant to 37 CFR 1.702(a)(1). An adjustment of four days was accorded pursuant to 37 CFR 1.702(a)(2). At issue is whether patentees should accrue 74 days of patent term adjustment due to the Three Year Delay by the Office, as well as 529 days for Office failure to take a certain action within a specified time frame (or examination delay).

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay and the period of Examination Delay to the extent that these periods of delay are not overlapping. Patentees, however, contend that the Three Year Delay period overlaps with the period of examination delay for a period of two (2) days only. Accordingly, patentees submit that the total period of adjustment for Office delay is 604 days, which is the sum of the period of Three Year Delay (77 days) and the period of Examination Delay (529 days), reduced by the period of overlap (2 days). As such, patentees assert entitlement to a patent term adjustment of 604 days (77 days + 529 days reduced by 2 overlap – 0 days of applicant delay).

Regarding Patentee's request for recalculation of the patent term adjustment based on the decision in Wyeth, under 37 CFR 1.703(f), Patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

A review of the applicant for patent term adjustment reveals that Patentee's have incorrectly calculated the period of adjustment under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) for failing to issue the patent within three years of the 'actual filing date' of the application. The period of adjustment under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) is the number of days in the period beginning on the day after the date that is three years after the date on which the national stage commenced under 35 U.S.C. 371(b) or (f). See MPEP § 2730. The commencement date is the date 30 months from the earliest priority date claimed in the international application<sup>1</sup>. In this application, the earliest priority date claimed, as shown on the Notice of Acceptance of Application Under 35 U.S.C. § 371 and 37 CFR 1.495, mailed September 13, 2006, is May 21, 2003. Accordingly, the commencement date is November 21, 2005, and the period of adjustment pursuant to 37 CFR 1.703(b) began November 22, 2008, 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), and ended February 3, 2009, the date that the patent issued, or 74 days. Accordingly, Applicant's calculation of the period of overlap of two (2) days – November 17, 2008, and November 18, 2008, is incorrect.

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<sup>1</sup> The commencement date may be earlier than 30 months where (1) an applicant expressly requested early commencement, and completed all requirements under 35 U.S.C. 371(c), or (2) Demand was timely filed requesting a change in commencement from 20 to 30 months. Neither is applicable here.

The Office contends that the 74 days of adjustment pursuant to 37 CFR 1.702(b) overlaps with the 529 days of adjustment pursuant to 37 CFR 1.702(a). Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR*

*1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay “overlap” under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154(b)(1)] are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718<sup>2</sup>

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay “overlap” under 35 U.S.C. 154(b)(1)(A) is the entire period during which the application was pending before the Office, November 16, 2005, and ending on the date that the patent issued, February 3, 2009. Prior to the issuance of the patent, 529 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 529 days of Office delay overlap with the 74 days for Office delay in issuing the patent. During that time, the issuance of the patent was delayed by

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<sup>2</sup> The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106<sup>th</sup> Cong. 1<sup>st</sup> Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

529 days, not 74 days + 529 days. Despite the initial 529 days of Office delay, the application issued three years and 74 days after the national stage commenced under 35 U.S.C. 371(b). However, the Office did not delay 529 days and then delay an additional 74 days. Accordingly, 529 days of patent term adjustment (not 529 and 74 days) was properly entered because the period of delay of 529 days attributable to grounds specified in § 1.702(a) overlaps with the 74 days attributable to the delay in the issuance of the patent. Entry of both periods is not warranted.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.



Alesia M. Brown  
Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,934	01/11/2007	Kazuo Yamashita	YAMA3053	3752

23364 7590 05/14/2010  
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ALEXANDRIA, VA 22314-1176

EXAMINER

MICALI, JOSEPH

ART UNIT PAPER NUMBER

1793

MAIL DATE DELIVERY MODE

05/14/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



11/464,540

The Examiner is directed that Groups I and III should be examined together.

/JACQUELINE STONE/

---

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JUL 09 2010

**OFFICE OF PETITIONS**

In re Patent of Hiroyuki Kikkoji et al.	:	DECISION ON REQUEST
Patent No. 7,631,036	:	FOR RECONSIDERATION OF
Issue Date: December 8, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/556,944	:	AND NOTICE OF INTENT TO
Filing Date: November 16, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. 277187US6PCT/jkl	:	CORRECTION

This is a decision on the petition filed January 25, 2010, 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 eight hundred twenty-three (823) 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 eight hundred twenty-three (823) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (“RCE”) to the issue date of the patent is not included in the period of delay under 35 U.S.C. § 154(b)(1)(B), the over three year period began on November 17, 2008, and ended on July 8, 2009, *the day before* the RCE was filed, and is 234 days, not 235 days. *See* 35 U.S.C. § 154(b)(1)(B)(i). As such, the patent term adjustment is 822 days, not 823 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

The Office acknowledges submission of the \$200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **eight hundred twenty-two (822) days.**

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read 'C. S. Brantley', written in a cursive style.

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. : 7,631,036 B2  
APPLICATION NO. : 10/556,944  
DATED : December 8, 2009  
INVENTOR(S) : Hiroyuki Kikkoji 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 588 days.

Delete the phrase "by 588 days" and insert -- by 822 days--

06 OCT 2006



UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDERMOTT WILL & EMERY LLP  
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WASHINGTON DC 20005-3096

In re Application of  
OHGA et al.  
Serial No.: 10/556,946  
PCT App. No.: PCT/JP04/07039  
Int'l Filing Date: 18 May 2004  
Priority Date: 19 May 2003  
Attorney Docket No.: 050395-0360  
For: OPTICAL FIBER AND  
MANUFACTURING METHOD THEREOF

DECISION ON  
PETITION UNDER  
37 CFR 1.137(b)

This is a decision on applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)", filed on 27 July 2006 in the United States Patent and Trademark Office (USPTO).

**BACKGROUND**

On 16 November 2005, within the thirty month period, applicant filed a Transmittal Letter (Form PTO 1390) requesting entry into the U.S. national stage. However, applicant did not pay the basic national fee as required by 35 U.S.C. 371(c).

On 27 July 2006, after contacting the USPTO, applicant learned that the application was abandoned for failure to pay the basic national fee by the thirty month period. Applicant filed a petition to revive along with authorization to charge the petition fee and the basic national fee to applicant's deposit account.

On 05 October 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed indicating that applicant had failed to pay the U.S. basic national fee.

**DISCUSSION**

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), and (3) a statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional".

With regard to Item (1), a review of the application file reveals that the proper reply was provided with payment of the basic national fee, which was charged to applicant's deposit account. With respect to Item (2), the required petition fee of \$1500 has also been paid. With respect to Item (3), applicant's statement that "the entire delay in filing the fees from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

**CONCLUSION**

For the reasons stated above, the petition to revive under 37 CFR 1.137(b) filed 27 July 2006 in the above-captioned application is **GRANTED**.

The application will be forwarded to the U.S. Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **27 July 2006**.

  
Cynthia M. Kratz  
Attorney Advisor  
Office of PCT Legal Administration

Telephone: 571-272-3286  
Facsimile: 571-273-0459



20 SEP 2006

OPPEDAHL AND LARSON LLP  
P O BOX 5068  
DILLON, CO 80435-5068

In re Application of :  
BRYAN *et al* :  
U.S. Application No.: 10/556,950 :  
PCT No.: PCT/AU2004/000635 :  
Int. Filing Date: 14 May 2004 :  
Priority Date: 16 May 2003 :  
Attorney Docket No.: FREE.P-010 :  
For: MODIFICATION OF FATTY ACID :  
BIOSYNTHESIS USING . . . :

**DECISION**

This decision is in response to applicants' "Petition Under Rule 47" filed 07 June 2006. This is treated as a petition under 37 CFR 1.47(a).

**BACKGROUND**

On 14 November 2005, applicants filed papers to enter the national stage of PCT/AU2004/000635.

On 07 June 2006, applicants filed the subject petition which was accompanied by, *inter alia*, a declaration executed by four named inventors; the petition fee and surcharge fee; a declaration by Debra Tulloch; a copy of a letter dated 15 March 2006; and copies of postal receipts.

**DISCUSSION**

Petitioners claim that Ms. Margaret Burling refuses to join in the application and have submitted the instant petition.

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventor on their behalf and on behalf of the nonsigning joint inventor.

Concerning item (1), the \$200.00 petition fee has been paid.

With regards to item (3), the last known address of Ms. Margaret Burling is recorded as:

457 Pyke Rd.  
RD 7  
Palmerston North  
New Zealand

Concerning item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by four named inventors on their own behalf and on behalf of 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).

Items (1), (3) and (4) of 37 CFR 1.47(a) are satisfied.

Regarding item (2), petitioners claim that the conduct of Ms. Burling constitutes a refusal to join in the subject application and have submitted a statement by Ms. Tulloch outlining the steps taken to obtain the signature of Ms. Burling.

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 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 . . .

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.

Here, there is no evidence showing that a complete copy of the application was sent to Ms. Burling. Petitioners have only demonstrated that a declaration of the subject application was sent to Ms. Burling. Ms. Tulloch states in her declaration only that a declaration was sent to the last known address for Ms. Burling on 15 March 2006 and again on 11 April 2006. The copy of the letter dated 15 March 2006 provided with the subject petition also confirms that a declaration was mailed. As such, the purported refusal by Ms. Burling is not accepted.

Applicants must also show that a complete copy of the application (specification, claims and drawings) was sent to the nonsigning inventor for the refusal to be accepted. For this reason, item (2) of 37 CFR 1.47(a) is not satisfied.

#### **CONCLUSION**

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



James Thomson  
Attorney Advisor  
Office of PCT Legal Administration

Tel.: (571) 272-3302



12 DEC 2006

OPPEDAHL AND LARSON LLP  
P O BOX 5068  
DILLON, CO 80435-5068

In re Application of :  
BRYAN *et al* :  
U.S. Application No.: 10/556,950 :  
PCT No.: PCT/AU2004/000635 :  
Int. Filing Date: 14 May 2004 :  
Priority Date: 16 May 2003 :  
Attorney Docket No.: FREE.P-010 :  
For: MODIFICATION OF FATTY ACID :  
BIOSYNTHESIS USING ... :

**DECISION**

This decision is in response to applicants' renewed petition under 37 CFR 1.47(a) filed 20 November 2006.

**BACKGROUND**

On 20 September 2006, a decision dismissing the original 37 CFR 1.47(a) petition was mailed. Item (2) of 37 CFR 1.47(a) was not satisfied. Applicants were given two months to respond.

On 20 November 2006, applicants filed the renewed petition.

**DISCUSSION**

In the renewed petition, the 37 CFR 1.47(a) applicants request reconsideration of the prior decision. The 37 CFR 1.47(a) applicants contest that the requirement listed in section 409.03(d) of the MPEP requesting that a complete copy of the application be sent to the nonsigning inventor is needed and argue that the "totality of the circumstances" show that the nonsigning inventor "knew what she was being asked to sign and that she refused based on reasons based on her relationship with her former employer."

This argument has been considered and dismissed.

The declaration submitted to Ms. Burling (a copy of which was filed with the original petition on 07 June 2006) states that the inventor would be certifying that she has "reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above." Yet the 37 CFR 1.47(a) applicants did not provide a copy of the patent application to

the inventor. Only a declaration was provided for the inventor to sign.

It is unreasonable to request an inventor to certify in the declaration that the inventor has reviewed and understand the contents of the application 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). Moreover, this requirement is not overly burdensome. If a *bona fide* attempt is made to deliver the application papers but the inventor refuses delivery or expressly states that the application papers should not be sent, the MPEP states that this action may be sufficient.

A refusal to cooperate petition under 37 CFR 1.47 will **not** be granted unless petitioners show that a complete copy of the application was sent to the nonsigning inventor.

### **CONCLUSION**

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 under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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OPPEDAHL AND LARSON LLP  
P O BOX 5068  
DILLON, CO 80435-5068

02 FEB 2007

In re Application of :  
BRYAN *et al* :  
U.S. Application No.: 10/556,950 :  
PCT No.: PCT/AU2004/000635 :  
Int. Filing Date: 14 May 2004 :  
Priority Date: 16 May 2003 :  
Attorney Docket No.: FREE.P-010 :  
For: MODIFICATION OF FATTY ACID :  
BIOSYNTHESIS USING ... :

**DECISION**

This decision is in response to applicants' request for reconsideration of petition under 37 CFR 1.47(a) filed 29 December 2006.

**BACKGROUND**

On 12 December 2006, a decision dismissing applicants' renewed 37 CFR 1.47(a) petition was mailed. Applicants were given two months to respond.

On 29 December 2006, applicants filed another renewed petition which contained a declaration by Debra Tulloch ("Decl.") and exhibits A - B.

**DISCUSSION**

As noted in the original decision dated 20 September 2006, 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 Ms. Margaret Burling. As such, no refusal by conduct could be shown. Applicants' renewed petition filed 20 November 2006 again did not make such a showing and was similarly dismissed.

Here, the 37 CFR 1.47(a) applicants submitted a declaration by Debra Tulloch who states that a complete copy of the application and a declaration were sent to the nonsigning inventor on 05 December 2006. The 37 CFR 1.47(a) applicants included evidence in the form of a letter dated 01 December 2006 mailed to the last known address of Ms. Burling. This letter confirms that a complete copy of the application was provided to the nonsigning inventor. Petitioners also provided sufficient proof of delivery of the documents in exhibit B.

10/556,950

A review of the cover letter shows that a response by Ms. Burling was required by 15 December 2006. Ms. Tulloch states in her declaration signed on 20 December 2006 that "[t]o date we have not received a signed declaration from Ms. Burling" and that "[o]n information and belief, Ms. Burling is refusing to sign unless she is paid additional compensation." Decl. at ¶¶ 7-8.

The conduct of Ms. Burling 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 14 May 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 07 June 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.



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Hiscock & Barclay, LLP  
One Park Place  
300 South State Street  
Syracuse, NY 13202-2078

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In re Application of  
Tomas Lindstrom, et. al.  
Application No. 10/556,961  
Filed: November 15, 2005  
Attorney Docket No. 3044371 US01

DECISION ON PETITION  
TO WITHDRAW FROM  
RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 37 CFR 10.40, filed November 2, 2009.

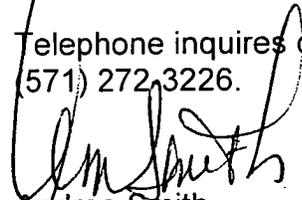
The request is **NOT APPROVED**.

It is noted that a power of attorney was filed by the assignee on January 19, 2010, which revoked any previous power of attorney or authorization of agent. Therefore, the request to withdraw under 37 CFR §§ 1.36(b) or 10.40 is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

This application file is being referred to Technology Center Art Unit 1797, to await a response to the Interview Summary mailed January 28, 2010.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3226.

  
Andrea Smith  
Petitions Examiner  
Office of Petitions

cc: Hiscock & Barclay, LLP  
One Park Place  
300 South State Street  
Syracuse, NY 13202-2078



02 OCT 2006

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Michael P. Leary  
BLACK & DECKER  
710 EAST JOPPA ROAD - TW 199  
TOWSON, MD 21286

In re Application of: STIRM, et al	:	
Application No.: 10/556,971	:	
PCT Application No.: PCT/EP04/02914	:	COMMUNICATION AND
Int. Filing Date: 19 March 2004	:	DECISION ON
Priority Date Claimed: 21 March 2003	:	PETITION UNDER
Attorney Docket No.: P-US-PR 1098	:	37 CFR 1.137(b)
For: Vibration Reduction Apparatus for Power	:	
Tool and Power Tool Incorporating Such	:	
Apparatus	:	

This application was before the Office Of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371. A communication addressing these issues and responding to Applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally under 37 CFR 1.137(b)" was mailed on 14 August 2006. The instant communication is being mailed to correct a statement, regarding the oath/declaration, which was made in the previous communication.

**BACKGROUND**

On 19 March 2004, Applicant filed international application PCT/EP04/02914, which designated the U.S. and claimed a priority date of 21 March 2003. A copy of the international application was provided to the United States Patent and Trademark Office (USPTO) by Applicant. The thirty-month period for paying the basic national fee in the United States expired at midnight on 21 September 2005.

On 15 November 2005, Applicant filed application papers requesting national stage entry in the United States for PCT/EP04/02914. These papers were addressed to

“Mail Stop Petition”, and were accompanied, *inter alia*, by the requisite basic national fee and were assigned U.S. application number 10/556,971.

On 17 November 2005, Applicant filed a second set of application papers requesting national stage entry in the United States for PCT/EP04/02914. These papers were addressed to “Mail Stop PCT”, and were temporarily assigned U.S. application number 10/557,370.

Each set of national stage application papers, filed on 15 November 2005 and on 17 November 2005, included a “Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally under 37 CFR 1.137(b)”, along with the an executed declaration and petition fee.

## **DISCUSSION**

### **I. Issue Regarding Duplicate National Stage Application Papers**

As evident from the above-recited facts, Applicant submitted a set of papers to enter the national stage, but addressed the papers to two different mail stops, on two different dates. As a result, two different application numbers were assigned. Application number 10/557,370 was assigned inadvertently. Accordingly, both of the submissions, those filed on 15 November 2005 and 17 November 2005, will be placed in a file for application number 10/556,971.

Applicant should use application number 10/556,971 in all future communications with the United States Patent and Trademark Office regarding the U.S. national stage application of international application PCT/EP04/02914.

### **II. Petition Under 37 CFR 1.137(b)**

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), the required reply, i.e. the \$300 basic national fee has been received.

With regard to Item (2), the appropriate petition fee of \$1,500 as required by 37 CFR 1.17(m) has been paid.

With regard to Item (3), Applicant's statement that "[t]he 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" has been satisfied.

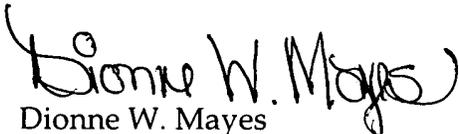
With regard to Item (4), a terminal disclaimer is not required since this application was filed after 08 June 1995.

### CONCLUSION

The national stage application papers filed on 15 November 2005, and the papers filed on 17 November 2005 have been placed in the file of application number **10/556,971**.

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 **10/556,971**.

Application number **10/556,971** is being forwarded to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. This will include placement of the 10/557,370 application papers in the 10/556,971 application file and deactivation of the 10/557,370 file. It is noted that Applicant has submitted a "Declaration of Inventorship (Rules 4.17(iv) and 51bis.1(a)(iv)) for the purpose of the designation of the United States of America", within the time limits provided for in PCT Rule 26 ter 1, which satisfies the requirements for an oath/ declaration under 37 CFR 1.497.



Dionne W. Mayes  
PCT Legal Administration Detailee  
Telephone: 571-272-6094  
Facsimile: 571-273-0459



Leonard Smith  
Supervisory Legal Examiner  
Office of PCT Legal Administration

06 MAR 2008



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In re Application of :  
HEWES *et al* :  
U.S. Application No.: 10/556,975 :  
PCT No.: PCT/US2004/015729 :  
Int. Filing Date: 17 May 2004 :  
Priority Date: 16 May 2003 :  
Attorney Docket No.: 6783P093 :  
For: SYSTEM AND METHOD FOR :  
DETERMINING AND DELIVERING :  
APPROPRIATE MULTIMEDIA :  
CONTENT TO DATA :  
COMMUNICATION DEVICES :

**DECISION**

This decision is in response to applicants' petition under 37 CFR 1.47 and 37 CFR 1.137(b) filed 31 January 2008.

**BACKGROUND**

On 12 September 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 31 December 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) for failure to respond to the Form PCT/DO/EO/905 within the time period set therein.

On 31 January 2007, applicants filed a petition to revive under 37 CFR 1.137(b) which was accompanied by, *inter alia*, a petition under 37 CFR 1.47(a); a declaration signed by three of the four named inventors; required fees; and other assorted documentary evidence in support of the petition under 37 CFR 1.47(a).

**DISCUSSION**

**Petition to Revive Under 37 CFR 1.137(b)**

A petition to revive pursuant to 37 CFR 1.137(b) requires: (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the

required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Applicants submitted a declaration executed by three of the four named inventors and a petition under 37 CFR 1.47(a) for the nonsigning inventor. This is considered an appropriate response. Applicants provided the petition fee of \$1,540.00. Applicants' statement in the petition meets the requirement of 37 CFR 1.137(b)(3). A terminal disclaimer is not required.

Applicants' petition to revive under 37 CFR 1.137(b) is **GRANTED**.

### **Petition Under 37 CFR 1.47(a)**

Applicants claim that co-inventor, Eswar Priyadarshan cannot be found or reached after diligent effort and have filed a 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 refuse to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventor on their behalf and on behalf of the nonsigning joint inventor. Item (4) is not yet complete. All other items are complete.

Concerning item (1), the petition fee of \$200.00 has been paid.

Regarding item (2), the 37 CFR 1.47(a) applicants' claim that Eswar Priyadarshan cannot be located despite a diligent effort. A review of the evidence indicates that a complete copy of the subject application and declaration were sent to the last known address of Mr. Priyadarshan on 15 January 2008 and signed for. Then a UPS package containing a complete copy of the subject application and declaration was left on the front door of the nonsigning inventor. No response was received. Petitioners also indicate that an email request chain sent via LinkedIn to the nonsigning inventor was forwarded to Mr. Priyadarshan, but that he did not respond. Petitioners submitted copies of the cover letters, the LinkedIn receipt and USPS/UPS receipts.

Petitioners have not meet the requirements showing that an inventor cannot be reached. See § 409.03(d) MPEP. Petitioners did not provide a statement of facts that fully describes the exact facts which are relied on to establish that a diligent effort was made. There were also no internet searches conducted to locate the nonsigning inventor. But the evidence submitted does indicate that the nonsigning inventor refuses to cooperate.

Applicants burden in showing that an inventor refuses to cooperate is explained in section 409.03(d) of the MPEP. Several pertinent segments are listed below:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made . . .

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted.

Here, a complete copy of the application was sent to the nonsigning inventor and received. The postal receipt was signed for and the UPS package was left on the front door. No response was received. Moreover, applicants attempted to contact the nonsigning inventor via email. There was evidence submitted showing that the email was forwarded to Mr. Priyadarshan. Again no response was received. Sufficient documentary evidence was provided. The conduct of the nonsigning inventor is sufficient to show a refusal contemplated by section 409.03(d) of the MPEP.

With regards to item (3), the last known address of co-inventor Eswar Priyadarshan is listed as:

39 Cricket Lane  
West Roxbury, MA 02132

Concerning item (4), the 37 CFR 1.47(a) applicants submitted a declaration signed by three of the four named co-inventors on behalf of themselves and the nonsigning joint inventor. All required information including the nonsigning co-inventor's name, residence, post office addresses and citizenship are typed on the declaration.

However, it appears that petitioners submitted one complete declaration and a portion of another declaration. The declaration submitted is a 3-page declaration consisting of 4 pages (two page 3's). 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. By providing only a partial declaration, it is not clear

what inventive entity was listed on the declaration signed by each co-inventor.

For this reason, item (4) of 37 CFR 1.47(a) is not satisfied.

**CONCLUSION**

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

Any further correspondence with respect to this matter 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.



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27 JUN 2008

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In re Application of :  
HEWES *et al* :  
U.S. Application No.: 10/556,975 :  
PCT No.: PCT/US2004/015729 :  
Int. Filing Date: 17 May 2004 :  
Priority Date: 16 May 2003 :  
Attorney Docket No.: 6783P093 :  
For: SYSTEM AND METHOD FOR :  
DETERMINING AND DELIVERING :  
APPROPRIATE MULTIMEDIA :  
CONTENT TO DATA :  
COMMUNICATION DEVICES :

**DECISION**

This decision is in response to the renewed petition under 37 CFR 1.47 filed 06 May 2008.

**BACKGROUND**

On 06 March 2008, a decision<sup>1</sup> dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond with extensions of time available.

On 06 May 2008, applicants filed a renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, documentary evidence in support of the petition under 37 CFR 1.47(a).

**DISCUSSION**

As previously stated, 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 refuse to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventor(s) on their behalf and on behalf of the nonsigning joint inventor.

The prior decision mailed 06 March 2008 noted that all items of 37 CFR 1.47(a)

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<sup>1</sup> The decision mailed 06 March 2008 granted applicants' petition to revive under 37 CFR 1.137(b).

10/556,975

were complete except item (4) as the declaration submitted was only a partial declaration. Applicants were requested to provide a complete copy of each declaration signed by the inventors on behalf of the nonsigning inventor.

In the renewed petition, applicants provided information regarding further attempts to contact the nonsigning inventor. **This is not required.** Item (2) of 37 CFR 1.47(a) was satisfied in the prior petition. However, applicants failed to provide a complete copy of each declaration signed by the inventors as required. For this reason, item (4) of 37 CFR 1.47(a) is still not satisfied.

### **CONCLUSION**

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 under 37 CFR 1.136(a) are required.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

  
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In re Application of :  
HEWES *et al* :  
U.S. Application No.: 10/556,975 :  
PCT No.: PCT/US2004/015729 :  
Int. Filing Date: 17 May 2004 :  
Priority Date: 16 May 2003 :  
Attorney Docket No.: 6783P093 :  
For: SYSTEM AND METHOD FOR :  
DETERMINING AND DELIVERING :  
APPROPRIATE MULTIMEDIA :  
CONTENT TO DATA :  
COMMUNICATION DEVICES :

**DECISION**

This decision is in response to the renewed petition under 37 CFR 1.47 filed 22 September 2008 and the declaration filed 03 October 2008.

**BACKGROUND**

On 27 June 2008, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond with extensions of time available.

On 22 September 2008, applicants filed a renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a one-month extension of time and a declaration of Joan I. Abriam.

On 03 October 2008, applicants filed a declaration of Gerald Hawes.

**DISCUSSION**

As previously stated, 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 refuse to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventor(s) on their behalf and on behalf of the nonsigning joint inventor.

The 06 March 2008 decision noted that all items of 37 CFR 1.47(a) were complete except item (4) as the declaration submitted was only a partial declaration. Applicants were requested to provide a complete copy of each declaration signed by

10/556,975

the inventors on behalf of the nonsigning inventor.

In the renewed petition filed 06 May 2008, applicants provided information regarding further attempts to contact the nonsigning inventor. A decision was mailed on 27 June 2008 noting that this information was not required.

In the second renewed petition filed 22 September 2008, applicants again submitted information documenting the efforts to contact the nonsigning inventor. This information is again not required.

Applicants then submitted a declaration executed by the first named inventor on 03 October 2008. The original declaration filed 31 January 2008 contained three page 3's. The declaration submitted here does not cure this defect.

Applicants must provide a complete copy of each declaration signed by the three inventors who are executing the declaration. Accordingly, a complete copy of the declaration executed by Mr. Hwang and Mr. Snyder is still required.

For this reason, item (4) of 37 CFR 1.47(a) is still not satisfied.

### **CONCLUSION**

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 under 37 CFR 1.136(a) are required.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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24 MAR 2009

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Sunnyvale, CA 94085-4040

In re Application of :  
HEWES *et al* :  
U.S. Application No.: 10/556,975 :  
PCT No.: PCT/US2004/015729 :  
Int. Filing Date: 17 May 2004 :  
Priority Date: 16 May 2003 :  
Attorney Docket No.: 6783P093 :  
For: SYSTEM AND METHOD FOR :  
DETERMINING AND DELIVERING :  
APPROPRIATE MULTIMEDIA :  
CONTENT TO DATA :  
COMMUNICATION DEVICES :

**DECISION**

This decision is in response to the renewed petition under 37 CFR 1.47(a) filed 22 January 2009.

**BACKGROUND**

On 21 November 2008, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond with extensions of time available.

On 22 January 2009, applicants filed a renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration executed by two of the four named inventors and a copy of the signature page of a declaration executed by Mr. Gerald Hewes.

**DISCUSSION**

The prior decision noted that applicants had satisfied all requirements of 37 CFR 1.47(a) except item (4). Applicants were requested to provide a declaration executed by joint inventors, Mr. Boon Hwang and Mr. Randall Snyder to satisfy item (4) of 37 CFR 1.47(a).

In the papers filed 22 January 2009, applicants provided declarations executed

10/556,975

by Mr. Hwang and Mr. Snyder.<sup>1</sup> These declarations satisfy the requirements of 37 CFR 1.497(a) and (b) and meet the requirements of section 409.03(a)(A) of the MPEP. Item (4) of 37 CFR 1.47(a) is complete.

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 17 May 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 22 January 2009.

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

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<sup>1</sup> The declaration executed by joint inventor, Mr. Gerald Hewes, filed 03 October 2008 was accepted in the prior decision.



24 MAR 2009

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Eswar Priyadarshan  
39 Cricket Lane  
West Roxbury, MA 02132

In re Application of  
HEWES *et al*  
U.S. Application No.: 10/556,975  
PCT No.: PCT/US2004/015729  
Int. Filing Date: 17 May 2004  
Priority Date: 16 May 2003  
Attorney Docket No.: 6783P093  
For: SYSTEM AND METHOD FOR  
DETERMINING AND DELIVERING  
APPROPRIATE MULTIMEDIA  
CONTENT TO DATA  
COMMUNICATION DEVICES

Dear Mr. Priyadarshan:

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

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In re Application of	:	
Hewes et al.	:	
Application No.: 10/556,976	:	DECISION
PCT No.: PCT/US04/15432	:	
Int. Filing Date: 17 May 2004	:	ON
Priority Date: 16 May 2003	:	
Attorney Docket No.: 104222-479-NP	:	PETITION
For: System And Method Using Presence In A	:	
Data Network To Facilitate Communication	:	

This is in response to the petitions under 37 CFR 1.137(b) and 1.47(a) filed on 31 January 2008.

**BACKGROUND**

This international application was filed on 17 May 2004, claimed an earlier priority date of 16 May 2003, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 16 November 2005. Applicants filed *inter alia* the basic national fee on 16 November 2005.

On 12 September 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

On 31 December 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the U.S. for failure to timely reply to the Notification of Missing Requirements mailed on 12 September 2006.

**DISCUSSION**

*Petition Under 37 CFR 1.137(b)*

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding **requirement (1)**, the “required reply” is the reply required by the Form PCT/DO/EO/905 mailed on 12 September 2006. The surcharge under 37 CFR 1.492(h) has been paid, but an acceptable oath or declaration has not been filed (per the following discussion of the petition under 37 CFR 1.47(a)). Therefore, requirement (1) has not been satisfied.

Regarding **requirement (2)**, the petition fee has been paid.

Regarding **requirement (3)**, the petition includes an appropriate statement of unintentional delay.

Regarding **requirement (4)**, no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

*Petition Under 37 CFR 1.47(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.

Regarding **requirement (1)**, the petition fee has been paid.

Regarding **requirement (2)**, petitioner seeks relief under 37 CFR 1.47(a) on the basis that joint inventor Eswar Priyadarshan allegedly cannot be found or reached after diligent effort. As evidence, petitioner attaches copies of letters dated 09 January 2008 and 15 January 2008 sent to his last known address, which did not result in the return of an executed declaration document. However, given the evidence of record, brief time between the mailing of said letters and the filing of the petition, it is not clear that Mr. Priyadarshan did not receive them. In addition, petitioner has not shown evidence of other diligent efforts undertaken to locate Mr. Priyadarshan, such as, e.g., telephone directory searches, internet searches, skip trace searches and the like. *See* MPEP 409.03(d). Petitioner has provided a copy of an earlier "Linked in" message, but failure to respond to such a message in itself does not establish that the inventor could not be found or reached (or has refused to execute the declaration).

Regarding **requirement (3)**, the petition states the last-known address of the non-signing inventor. Accordingly, requirement (3) has been satisfied.

Regarding **requirement (4)**, the petition is accompanied by an unsigned declaration, as well as by a declaration nominating only Gerald Hewes and signed (only) by Gerald Hewes. It would not be appropriate to accept this declaration since it does not name the entire inventive entity.

**DECISION**

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

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 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/  
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2 1 JUL 2008



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BLAKELY SOKOLOFF TAYLOR & ZAFMAN  
1279 OAKMEAD PARKWAY  
SUNNYVALE CA 94085-4040

In re Application of	:	
Hewes et al.	:	
Application No.: 10/556,976	:	DECISION
PCT No.: PCT/US04/15432	:	
Int. Filing Date: 17 May 2004	:	ON
Priority Date: 16 May 2003	:	
Attorney Docket No.: 6783.P090; 104222-479-NP	:	PETITION
For: System And Method Using Presence In A	:	
Data Network To Facilitate Communication :	:	

This is in response to the renewed petitions under 37 CFR 1.137(b) and 1.47(a) filed on 02 June 2008.

**DISCUSSION**

*Petition Under 37 CFR 1.137(b)*

In the Decision mailed on 31 March 2008, the petition under 37 CFR 1.137(b) filed on 31 January 2008 was dismissed, without prejudice, because

Regarding **requirement (1)**, the “required reply” is the reply required by the Form PCT/DO/EO/905 mailed on 12 September 2006. The surcharge under 37 CFR 1.492(h) has been paid, but an acceptable oath or declaration has not been filed (per the following discussion of the petition under 37 CFR 1.47(a)). Therefore, requirement (1) has not been satisfied.

As discussed *infra*, the “required reply” still has not been received. Therefore, it would not be appropriate to grant the petition under 37 CFR 1.137(b) at this time.

*Petition Under 37 CFR 1.47(a)*

In the Decision mailed on 31 March 2008, the petition under 37 CFR 1.47(a) filed on 31 January 2008 was dismissed without prejudice because, regarding requirement (2), petitioner had not adequately demonstrated the unavailability of the non-signing inventor, and regarding requirement (4), the declaration document was defective.

Regarding requirement (2), petitioner presents additional evidence tending to show that Joan Abriam sent a copy of the application and a declaration to Mr. Priyadarshan, including copies of several of her letters to him. However, petitioner has not provided Ms. Abriam’s statement describing, on the basis of her first-hand knowledge, her mailing of said correspondence to him. As explained at MPEP 409.03(d), it would be appropriate for the showing under 37 CFR 1.47(a) to include first-hand statements of the relevant facts and events.

Regarding requirement (4), petitioner still has not provided a declaration document signed by Gerald Hewes and listing the entire inventive entity (the signed declaration filed on 31 January 2008 is missing the page nominating the non-signing inventor).

**DECISION**

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

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 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.

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2 5 SEP 2008



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In re Application of	:	
Hewes et al.	:	
Application No.: 10/556,976	:	DECISION
PCT No.: PCT/US04/15432	:	
Int. Filing Date: 17 May 2004	:	ON
Priority Date: 16 May 2003	:	
Attorney Docket No.: 6783.P090; 104222-479-NP	:	PETITION
For: System And Method Using Presence In A	:	
Data Network To Facilitate Communication :	:	

This is in response to the renewed petition under 37 CFR 1.137(b) and 1.47(a) filed on 22 September 2008.

**DISCUSSION**

*Petition Under 37 CFR 1.137(b)*

In the Decision mailed on 21 July 2008, the renewed petition under 37 CFR 1.137(b) filed on 02 June 2008 was dismissed, without prejudice, because “the ‘required reply’ still has not been received.” In view of the fact, as discussed below, that the “required reply” still has not been received, it would not be appropriate to grant the petition under 37 CFR 1.137(b) at this time.

*Petition Under 37 CFR 1.47(a)*

In the Decision mailed on 21 July 2008, the renewed petition under 37 CFR 1.47(a) filed on 02 June 2008 was dismissed without prejudice because

Regarding requirement (2), petitioner presents additional evidence tending to show that Joan Abriam sent a copy of the application and a declaration to Mr. Priyadarshan, including copies of several of her letters to him. However, petitioner has not provided Ms. Abriam’s statement describing, on the basis of her first-hand knowledge, her mailing of said correspondence to him. As explained at MPEP 409.03(d), it would be appropriate for the showing under 37 CFR 1.47(a) to include first-hand statements of the relevant facts and events.

Regarding requirement (4), petitioner still has not provided a declaration document signed by Gerald Hewes and listing the entire inventive entity (the signed declaration filed on 31 January 2008 is missing the page nominating the non-signing inventor).

In response, petitioner has provided a “Declaration of Joan I. Abriam” which describes her sending of correspondence to Mr. Priyadarshan on 09 January 2008, 15 January 2008 and 21 April 2008. Ms. Abriam indicates that the correspondence included copies of the application and the declaration (corroborating the earlier-filed copies of the letters) and that no response was received. Based on the totality of the evidence now of record, it would be appropriate to

construe Mr. Priyadarshan's failure to return an executed declaration as a refusal within the meaning of 37 CFR 1.47(a). Requirement (2) has been satisfied.

Regarding requirement (4), petitioner still has not provided an acceptable declaration document. It is noted again that the declaration filed on 31 January 2008 and signed by Gerald Hewes does not nominate the non-signing inventor, Mr. Priyadarshan. Therefore, requirement (4) has not been satisfied.

**DECISION**

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

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 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.

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In re Application of	:	
Hewes et al.	:	
Application No.: 10/556,976	:	DECISION
PCT No.: PCT/US04/15432	:	
Int. Filing Date: 17 May 2004	:	ON
Priority Date: 16 May 2003	:	
Attorney Docket No.: 6783.P090; 104222-479-NP	:	PETITION
For: System And Method Using Presence In A	:	
Data Network To Facilitate Communication :	:	

This is in response to the renewed petition under 37 CFR 1.137(b) and 1.47(a) filed on 08 October 2008.

**DISCUSSION**

*Petition Under 37 CFR 1.137(b)*

In the Decision mailed on 25 September 2008, the renewed petition under 37 CFR 1.137(b) filed on 22 September 2008 was dismissed, without prejudice, because “in view of the fact, as discussed below, that the ‘required reply’ still has not been received, it would not be appropriate to grant the petition under 37 CFR 1.137(b) at this time.” As noted below, the required reply requirement still has not been satisfied.

*Petition Under 37 CFR 1.47(a)*

In the Decision mailed on 25 September 2008, the renewed petition under 37 CFR 1.47(a) filed on 22 September 2008 was dismissed without prejudice because

Regarding requirement (4), petitioner still has not provided an acceptable declaration document. It is noted again that the declaration filed on 31 January 2008 and signed by Gerald Hewes does not nominate the non-signing inventor, Mr. Priyadarshan. Therefore, requirement (4) has not been satisfied.

In response, petitioner has presented a three-sheet declaration signed by Mr. Hewes. Inspection of this declaration reveals that the first two sheets appear to be copies of his two-sheet declaration filed on 31 January 2008, which have been attached to a third sheet nominating Eswar Priyadarshan. Thus, it is not clear that Mr. Hewes in fact signed a declaration document naming the entire inventive entity at the time he signed it. Rather, it appears that the sheet naming Mr. Priyadarshan was added after the fact. Petitioner’s attention is drawn, respectfully, to MPEP 201.03, which explains in part that

While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one

declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

In view of the policy explained at MPEP 201.03, it would not be appropriate to accept the declaration document filed on 08 October 2008. Therefore, requirement (4) has not been met.

**DECISION**

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

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 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.

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18 MAR 2009



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In re Application of	:	
Hewes et al.	:	
Application No.: 10/556,976	:	DECISION
PCT No.: PCT/US04/15432	:	
Int. Filing Date: 17 May 2004	:	ON
Priority Date: 16 May 2003	:	
Attorney Docket No.: 6783.P090; 104222-479-NP	:	PETITION
For: System And Method Using Presence In A	:	
Data Network To Facilitate Communication :	:	

This is in response to the renewed petition under 37 CFR 1.137(b) and 1.47(a) filed on 11 November 2008.

**DISCUSSION**

*Petition Under 37 CFR 1.137(b)*

In the Decision mailed on 15 October 2008, the renewed petition under 37 CFR 1.137(b) filed on 08 October 2008 was dismissed; without prejudice, because the required reply requirement had not been satisfied. As noted below, this is still the case; accordingly, the petition under 37 CFR 1.137(b) is again DISMISSED, without prejudice.

*Petition Under 37 CFR 1.47(a)*

In the Decision mailed on 15 October 2008, the renewed petition under 37 CFR 1.47(a) filed on 08 October 2008 was dismissed without prejudice because

petitioner has presented a three-sheet declaration signed by Mr. Hewes. Inspection of this declaration reveals that the first two sheets appear to be copies of his two-sheet declaration filed on 31 January 2008, which have been attached to a third sheet nominating Eswar Priyadarshan. Thus, it is not clear that Mr. Hewes in fact signed a declaration document naming the entire inventive entity at the time he signed it. Rather, it appears that the sheet naming Mr. Priyadarshan was added after the fact. Petitioner's attention is drawn, respectfully, to MPEP 201.03...

In view of the policy explained at MPEP 201.03, it would not be appropriate to accept the declaration document filed on 08 October 2008. Therefore, requirement (4) has not been met.

In response, petitioner has submitted a new declaration document. Inspection of this document reveals that it appears that a copy of the sheet signed by Mr. Hewes was later attached to pages 1-3 to arrive at the submitted 4-page declaration document; note that signed page 4 appears to be a copy whereas the other sheets do not, implying that copied sheet 4 was later attached to sheets 1-3. Thus, petitioner does not appear to have submitted a complete copy of the declaration Mr. Hewes actually signed; instead, a composite document appears to have been

filed. This is not consistent with the policy described at MPEP 201.03 and quoted in the previous Decision. For this reason, requirement (4) has not been satisfied. Petitioner should submit a complete copy of the declaration document actually signed by Mr. Hewes.

**DECISION**

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

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 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.

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In re Application of	:	
Hewes et al.	:	
Application No.: 10/556,976	:	DECISION
PCT No.: PCT/US04/15432	:	
Int. Filing Date: 17 May 2004	:	ON
Priority Date: 16 May 2003	:	
Attorney Docket No.: 6783.P090; 104222-479-NP	:	PETITION
For: System And Method Using Presence In A	:	
Data Network To Facilitate Communication	:	

This is in response to the renewed petition under 37 CFR 1.137(b) and 1.47(a) filed on 07 May 2009.

**DISCUSSION**

*Petition Under 37 CFR 1.137(b)*

As discussed below, the petition under 37 CFR 1.47(a) is grantable. As such, petitioner is regarded as having filed the "required reply." Accordingly, all of the requirements for relief under 37 CFR 1.137(b) now have been satisfied.

*Petition Under 37 CFR 1.47(a)*

In the Decision mailed on 18 March 2009, the renewed petition under 37 CFR 1.47(a) filed on 11 November 2008 was dismissed without prejudice because the declaration of record was found to be defective. In response, petitioner has provided "a complete copy of the declaration document actually signed by Mr. Hewes, including all four pages." This declaration is accepted in satisfaction of requirement (4) under 37 CFR 1.47(a). As such, all of the requirements for relief under 37 CFR 1.47(a) now have been satisfied.

**DECISION**

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the National Stage Processing Branch for processing as the U.S. National Stage of the above-identified international application. Its date under 35

U.S.C. 371(c)(1), (2) and (4) is 07 May 2009 (the date the declaration was filed). Said processing will include updating the electronic records of the USPTO to show the status of this application as pending (not abandoned).

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23 OCT 2009

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Eswar Priyadarshan  
39 Cricket Lane  
West Roxbury, MA 02132

In re Application of  
Hewes et al.  
Application No.: 10/556,976  
PCT No.: PCT/US04/15432  
Int. Filing Date: 17 May 2004  
Priority Date: 16 May 2003  
Attorney Docket No.: 6783.P090; 104222-479-NP  
For: System And Method Using Presence In A  
Data Network To Facilitate Communication

Dear Mr. Priyadarshan:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3283. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

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## OFFICIAL GAZETTE NOTICE

### 37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of a joint inventor. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Eswar PRIYADARSHAN) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/US2004/015432 and the international application was filed on May 17, 2004 in the names of Gerald HEWES and Eswar PRIYADARSHAN for the invention entitled SYSTEM AND METHOD USING PRESENCE IN A DATA NETWORK TO FACILITATE COMMUNICATION. The national stage application number is 10/556,976 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of May 7, 2009.



INGURAN LLC  
22575 STATE HIGHWAY 6 SOUTH  
NAVASOTA, TX 77868

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In re Application of: :  
Kenneth M. Evans et al. :  
Application No. 10/556,981 : PETITION DECISION  
Filed: November 15, 2005 :  
Attorney Docket No.: XY-PULSE US NP :

This is a decision on the petition filed January 8, 2010 under 37 CFR 1.183 Requesting Waiver of The Signatures of Unavailable Inventors which is being treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131.

The petition is **GRANTED**.

The application as-filed identified four inventors as the inventive entity: Kenneth Evans, Thomas Gilligan, Tae Suh and Todd Cox. Declarations under 37 CFR 1.131(a) were filed on January 8, 2010 but were not signed by two of the co-inventors, Suh and Cox.

Petitioner has filed the instant petition to request waiver of the signature of the unavailable inventors.

MPEP 715.04(I) states in part:

Where one or more of the named inventors of the subject matter of the rejected claim(s) (who had originally signed the oath or declaration for patent application under 37 CFR 1.63) is now unavailable to sign an affidavit or declaration under 37 CFR 1.131, the affidavit or declaration under 37 CFR 1.131 may be signed by the remaining joint inventors provided a petition under 37 CFR 1.183 requesting waiver of the signature of the unavailable inventor be submitted with the affidavit or declaration under 37 CFR 1.131. Proof that the non-signing inventor is unavailable or cannot be found similar to the proof required for a petition under 37 CFR 1.47 must be submitted with the petition under 37 CFR 1.183 (see MPEP § 409.03(d)). Petitions under 37 CFR 1.183 are decided by the Office of Petitions (see MPEP § 1002.02(b)).

As noted in the above paragraph, proof that the non-signing inventor is unavailable is similar to the proof required under 37 CFR 1.47. This is discussed in MPEP 409.03(d)(II) which states in part:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made.

A declaration by in house counsel of the assignee, Ryan Christensen, states that copies of the 37 CFR 1.131 Affidavits were mailed to inventors Suh and Cox who did not return their copies. The petition includes copies of Certified Mail receipts (Exhibit C) showing that co-inventors Suh and Cox signed for their copies of the affidavits indicating that they received them. However, neither co-inventor returned their copies of the affidavits. The declaration indicates that Christensen had tried to contact Suh and Cox by email and telephone with no response received. Christensen has construed that based on the fact that the affidavits were received but not returned, that co-inventors Suh and Cox are unavailable to execute the affidavits.

Petitioner has provided sufficient evidence that co-inventors Suh and Cox refuse to sign the affidavits and thus are unavailable within the meaning of MPEP 409.03(d)(II). The requirements of MPEP 715.04(D) are met in that the affidavits are signed by Juan Moreno, the chief executive officer of the assignee.

For the reasons stated, the petition is granted.

Telephone inquiries concerning this matter should be directed to Carl Friedman at (571) 272-6842.

This application is being forwarded to Technology Center Art Unit 1657.

  
David Bucci  
Petitions Examine  
Office of Petitions

Cc: CR MILES P.C.  
405 Mason Court, Suite 119  
Fort Collins CO 80524



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**OFFICE OF PETITIONS**

NOVARTIS INSTITUTES FOR  
BIOMEDICAL RESEARCH, INC.  
220 MASSACHUSETTS AVENUE  
CAMBRIDGE MA 02139

In re Application of : ON APPLICATION FOR  
Ksander, et al. : PATENT TERM ADJUSTMENT  
Application No. 10/556,988 :  
Filed: February 3, 2006 :  
Atty Docket No. PC/4-33209A :

This decision is in response to the "PETITION REGARDING PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed September 23, 2009.

Applicants submit that the correct patent term adjustment to be indicated on the patent is five hundred twenty-two (522) days, not three hundred nineteen (319) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent<sup>1</sup>.

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

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<sup>1</sup> Applicants reference February 3, 2006 as the actual filing date upon which the 37 CFR 1.702(b) calculation is to be made. See p.2, petition. The reference to this date is unclear. The over three year delay will, in this instance, be calculated based on the application commencement date, which is November 21, 2005. See 35 U.S.C. 371(b).

patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee<sup>2</sup>.

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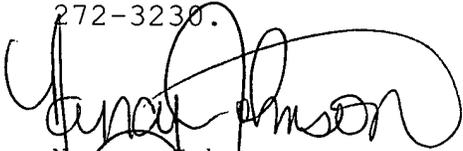
<sup>2</sup> For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

A handwritten signature in black ink, appearing to read "Nancy Johnson", written over the typed name below.

Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions



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NOVARTIS INSTITUTES FOR BIOMEDICAL RESEARCH, INC.  
220 MASSACHUSETTS AVENUE  
CAMBRIDGE MA 02139

MAILED

JUN 28 2010

OFFICE OF PETITIONS

In re Patent of Ksander et al.: DECISION ON REQUEST  
Patent No. 7,652,061 : FOR  
Issue Date: January 26, 2010 : RECONSIDERATION OF  
Application No. 10/556,988 : PATENT TERM ADJUSTMENT  
Filed: February 3, 2006 : and  
Atty Docket No. PC/4-33209A : NOTICE OF INTENT TO ISSUE  
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 11, 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 forty-six (646) 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 forty-six (646) days<sup>1</sup> is **GRANTED to the extent indicated herein.**

<sup>1</sup> The "B" delay period is 428 days, not 327 days. Patentee calculated this period based on the date this application fulfilled the requirements of 35 U.S.C. 371. However, in an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). The priority date of this application is May 20, 2003. As early processing was not requested, the national stage commenced in this application on November 21, 2005. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Sunday, the period expired on the subsequent business day. See PCT Rule 80.5. Thus, "B" delay is 431 days, counting the number of days beginning on November 22, 2008 and ending on January 26, 2010, the date of issuance, reduced by the 3 day overlapping period between the A Delay period and the B delay period, from January 24, 2010 to January 26, 2010.

The patent term adjustment is derived as follows: 352 days A delay + 428 B delay (431 days in Three Year Period - 3 overlapping days) - 30 days Applicant delay = **750 days**.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred fifty (750) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.



Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,652,061

DATED : **January 26, 2010**

**DRAFT**

INVENTOR(S) : Ksander et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 327 days

Delete the phrase "by 327 days" and insert – by 750 days--



03 JAN 2007

Schlumberger Technology Corporation  
110 Schlumberger Drive MD-1  
Sugar Land, TX 77478

In re Application of	:	
LE ROY-DELAGE, Sylvaine et al.	:	
Application No.: 10/556,990	:	DECISION ON
PCT No.: PCT/EP04/05478	:	
Int. Filing Date: 14 May 2004	:	PETITION
Priority Date: 14 May 2003	:	
Attorney Docket No.: 21.1243	:	UNDER 37 CFR 1.10(d)
For: SELF ADAPTIVE CEMENT SYSTEMS	:	

This decision is in response to applicant's Petition Under 37 CFR 1.10(d), filed on 13 December 2005.

**BACKGROUND**

On 14 May 2004, applicant filed international application PCT/EP04/05478, claiming a priority date of 14 May 2003. A copy of the international application was transmitted to the Office on 25 November 2004. The deadline for entry into the national stage in the United States was thirty months from the priority date, 14 November 2005.

Applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee by Express Mail. The date-in on the Express Mail mailing label indicated 15 November 2005 and the papers were accorded the date-in as their receipt date.

On 13 December 2005, applicant submitted a petition under 37 CFR 1.10(d) to correct the receipt date of the basic national fee.

**DISCUSSION**

Applicant argues that the application was submitted to the USPS on 14 November 2005. 37 CFR § 1.10(d) allows an applicant to petition to correct an incorrectly entered "Date In" of an Express Mail receipt and states that:

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Applicant has satisfied items (1), (2) and (3). The petition was filed promptly and the papers in the file reflect the mailing label number. Applicant has supplied the Express Mail mailing label showing a stamp indicating 14 November 2005 and a USPS register receipt indicating a deposit date of 14 November 2005.

### CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.10(d) to grant the basic national fee and accompanying fees a receipt date of 14 November 2005 is GRANTED.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including issuance of a Notification of Missing Requirements indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the fee for furnishing the search fee, examination fee or oath or declaration later than 30 months from the priority date are required.



Erin P. Thomson  
Attorney Advisor  
PCT Legal Administration

Telephone: 571-272-3292  
Facsimile: 571-273-0459



# UNITED STATES PATENT AND TRADEMARK OFFICE

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BACHMAN & LAPOINTE, P.C.  
900 CHAPEL STREET  
SUITE 1201  
NEW HAVEN, CT 06510

Mail Date: 05/20/2010

**Applicant** : Reinhard Diem : DECISION ON REQUEST FOR  
**Patent Number** : 7619180 : RECALCULATION of PATENT  
**Issue Date** : 11/17/2009 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/557,000 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 11/15/2005 : ISSUE CERTIFICATE OF CORRECTION  
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1037** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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3 1 MAR 2008

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OLIFF & BERRIDGE, PLC  
P.O. BOX 320850  
ALEXANDRIA VA 22320-4850

In re Application of	:	
HOSHINO et al	:	
Application No.: 10/557,001	:	DECISION ON
PCT No.: PCT/JP2004/006,545	:	
Int. Filing Date: 14 May 2004	:	PETITION
Priority Date: 14 May 2003	:	
Attorney's Docket No.: 125997	:	UNDER 37 CFR 1.181
For: DISCRIMINATION MEDIUM AND	:	
METHOD USING THE SAME	:	

This decision is in response to the "REQUEST FOR CORRECTION OF 35 USC 371 DATE," filed on 5 March 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 November 16, 2005.

**BACKGROUND**

On 16 November 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, a copy of an executed Declaration and a translation into English of the international application were provided with the transmittal letter.

On 27 January 2006, applicants filed a second transmittal letter, which was accompanied with a submission of substitute declaration.

On 17 April 2006, applicants filed a subsequent transmittal letter, which was accompanied with a Notification of Acceptance and Filing Receipt Status Check.

On 29 December 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 27 January 2006.

On 05 March 2008 submitted the present petition, stating that the application entered National Phase and completed all 35 USC 371 requirements on November 16, 2005.

**DISCUSSION**

A review of the file indicates that the executed declaration was received on **16 November 2005** 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 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 29 December 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 November 2005**.



Rafael Bacares  
Legal Examiner  
PCT Legal Office  
Telephone: (571) 272-3276  
Facsimile: (571) 273-0459



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ALEXANDRIA VA 22320-4850

In re Application of	:	
HOSHINO et al	:	
Application No.: 10/557,001	:	DECISION ON
PCT No.: PCT/JP2004/006,545	:	
Int. Filing Date: 14 May 2004	:	PETITION
Priority Date: 14 May 2003	:	
Attorney's Docket No.: 125997	:	UNDER 37 CFR 1.181
For: DISCRIMINATION MEDIUM AND	:	
METHOD USING THE SAME	:	

This decision is in response to the "REQUEST FOR CORRECTION OF 35 USC 371 DATE," filed on 5 March 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 November 16, 2005.

**BACKGROUND**

On 16 November 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, a copy of an executed Declaration and a translation into English of the international application were provided with the transmittal letter.

On 27 January 2006, applicants filed a second transmittal letter, which was accompanied with a submission of substitute declaration.

On 17 April 2006, applicants filed a subsequent transmittal letter, which was accompanied with a Notification of Acceptance and Filing Receipt Status Check.

On 29 December 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 27 January 2006.

On 05 March 2008 submitted the present petition, stating that the application entered National Phase and completed all 35 USC 371 requirements on November 16, 2005.

**DISCUSSION**

A review of the file indicates that the executed declaration was received on **16 November 2005** 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 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 29 December 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 November 2005**.



Rafael Bacares

Legal Examiner

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McDERMOTT WILL & EMERY, LLP  
600 13<sup>th</sup> Street, N.W.  
Washington, DC 20005-3096

**MAY 6 2008**

In re Application of :  
Shigeo IKUTA, et al. :  
Application No. 10/557005 :  
Filed: November 16, 2005 :  
Attorney Docket No. 043888-0417 :  
: DECISION ON REQUEST TO  
: PARTICIPATE IN PATENT  
: PROSECUTION HIGHWAY  
: PILOT PROGRAM AND PETITION  
: TO MAKE SPECIAL UNDER  
: 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program, the petition under 37 CFR 1.102(d), and the preliminary amendment, filed February 20, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

- (1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the 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

McDERMOTT WILL & EMERY, LLP  
600 13<sup>th</sup> Street, N.W.  
Washington, DC 20005-3096



CHRISTIE, PARKER & HALE, LLP  
P.O. BOX 7068  
PASADENA, CA 91109-7068

In re Application of :  
MCKEE, et al. :  
U.S. Application No.: 10/557,007 : DECISION ON PETITION  
PCT No.: PCT/US04/21645 :  
Int. Filing Date: 06 July 2004 : UNDER 37 CFR 1.10(e)  
Priority Date: 03 July 2003 :  
Attorney Docket No.: 52920/RRP/B823 :  
For: IMPROVED UNDERWIRE BRASSIERE :

This is a decision on applicant's "Letter in Response to Notification of Abandonment" filed 11 July 2008 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a petition under 37 CFR 1.10(e). No petition fee is required.

### **BACKGROUND**

On 06 July 2004, applicant filed international application PCT/US04/21645 which claimed priority to an earlier application filed 03 July 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 03 January 2006.

On 15 November 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee and an unsigned declaration of the inventors.

On 27 September 2007, 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 afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 26 June 2006, applicant was mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) indicating that the present application was abandoned as to the United States for failure to respond to the Form PCT/DO/EO/905 mailed 27 September 2007.

On 11 July 2008, applicant filed the present petition arguing that a timely response had been filed by Express Mail on 27 November 2007.

**DISCUSSION**

37 CFR 1.10(e) states:

Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
- (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and
- (4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Applicant has satisfied all four items above.

Regarding item 1, applicant filed the petition promptly after receiving the Form PCT/DO/EO/909.

As to item 2, the Express Mail number of EV810492981US was listed on the transmittal letter for the subject filing.

Regarding items 3 and 4, applicant has included copies of the subject filing, as well as, a copy of the Express Mail mailing label showing a "Date-in" date of 27 November 2007. In addition, applicant has certified that these copies are true copies of the originally mailed correspondence and USPS paperwork.

As such, it is proper to grant applicant's petition at this time.

Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

**CONCLUSION**

Applicant's petition under 37 CFR 1.10 (e) is **GRANTED**.

The NOTIFICATION OF ABANDONMENT mailed 26 June 2008 is hereby **VACATED**.

The application has an international filing date of 06 July 2004 under 35 U.S.C. 363 and will be given a date of **27 November 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision; namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) indicating the 371 date listed above.



Derek A. Putonen  
Attorney Advisor  
Office of PCT Legal Administration  
Tel: (571) 272-3294  
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13 JUL 2006



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Timothy E. Nauman  
Fay, Sharpe, Fagan, Minnich  
& McKee, LLP  
1100 Superior Avenue, 7<sup>th</sup> Floor  
Cleveland, OH 44114-2579

In re Application of : DECISION ON  
Allan J. Main, Jr. :  
Application No.: 10/557,010 :  
PCT No.: PCT/US2003/027826 :  
Int. Filing Date: 04 September 2003 : PETITION UNDER  
Priority Date: 04 September 2002 :  
Attorney's Docket No.: MAIN 2 00002 :  
For: POND RAKE : 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 15 November 2005.

**BACKGROUND**

On 04 September 2003, this international application was filed, claiming an earliest priority date of 04 September 2002.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 04 March 2005. This international application became abandoned with respect to the United States at midnight on 04 March 2005 for failure to pay the required basic national fee.

On 15 November 2005, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee, and the petition fee.

**DISCUSSION**

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional

information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

**DECISION**

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing



Rafael Bacares  
PCT Legal Examiner  
PCT Legal Office  
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Facsimile: (571) 273-0459



01 MAR 2007

HARNESS, DICKEY & PIERCE, PLC  
P.O. BOX 828  
BLOOMFIELD HILLS, MI 48303

In re Application of: :  
HENRIKSEN, Svein, Dag : DECISION ON PETITION  
U.S. Application No.: 10/557,014 :  
PCT No.: PCT/NO2004/000148 :  
International Filing Date: 18 May 2004 :  
Priority Date: 21 May 2003 :  
Atty Docket No.: 2600-12/US/NP :  
For: ARRANGEMENT FOR :  
ANCHORING A FLOATING :  
STRUCTURE :

This decision is issued in response to the "Petition To Accord Correct Filing Date Under 37 CFR 1.10(c)" filed 31 August 2006. No petition fee is required.

### **BACKGROUND**

On 18 May 2004, applicant filed international application PCT/NO2004/000148. The application claimed a priority date of 21 May 2003, and it designated the United States. On 02 December 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., 21 November 2005.

In November 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and an executed declaration in compliance with 37 CFR 1.497.

On 15 August 2005, the USPTO issued a filing receipt identifying 16 November 2005 as the 371(c) date.<sup>1</sup>

On 23 August 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying 16 November 2005 as the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) Requirements" and the "Date Of Completion Of All 35 U.S.C. 371 Requirements."

<sup>1</sup> It is noted that, on 15 August 2005, the USPTO also mailed a "Notification Of Insufficient Fees" (Form PCT/DO/EO/923) indicating that a \$130 surcharge was required. However, this Notification was mailed in error and was subsequently withdrawn pursuant to the "Withdrawal Of Previously Sent Notice" mailed 31 January 2007.

On 31 August 2006, applicant filed the petition considered herein. The petition asserts that the application materials were deposited with the USPS as "Express Mail" on 15 November 2005, and that 35 U.S.C. 371(c) date for the present application should therefore be corrected to 15 November 2005.

### DISCUSSION

The materials filed to initiate the present national stage application satisfied the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4), and they included a page entitled "Express Mail Transmittal." The "Express Mail Transmittal" itemized the enclosed materials, and it identified the "Express Mail" label number (EV717344582US) and the deposit date (15 November 2005). The present petition includes a copy of the customer receipt for "Express Mail" label number EV717344582US; this label bears a "date in" of 15 November 2005. In addition, the USPS tracking database confirms that the USPS accepted this "Express Mail" envelope on 15 November 2005.

Based on applicant's statements in the present petition, the "Express Mail Transmittal" included with the original application papers, the "date in" on the "Express Mail" label, and the USPS tracking data, it is concluded that the national stage application papers were deposited with the USPS as "Express Mail" on 15 November 2005. Pursuant to 37 CFR 1.10(c), these materials are properly accorded a filing date of 15 November 2005.

### CONCLUSION

Applicant's petition under 37 CFR 1.10(c) is **GRANTED**.

The filing receipt mailed 15 August 2006 and the Notification of Acceptance (Form PCT/DO/EO/903) mailed 23 August 2006, both of which incorrectly identified the 35 U.S.C. 371(c) date as 16 November 2005, are hereby **VACATED**.

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, including the mailing of a revised Notification of Acceptance identifying **15 November 2005** as the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) Requirements" and the "Date Of Completion Of All 35 U.S.C. 371 Requirements."

In addition, a corrected filing receipt will be issued that correctly identifies the 35 U.S.C. 371(c) date as **15 November 2005**.



Richard M. Ross  
Attorney Advisor  
Office of PCT Legal Administration  
Telephone: (571) 272-3296  
Facsimile: (571) 273-0459



18 OCT 2006

DYKEMA GOSSETT PLLC  
FRANKLIN SQUARE, THIRD FLOOR WEST  
1300 I STREET, NW  
WASHINGTON DC 20005

In re Application of :  
ROCHFORD et al. :  
Application No.: 10/557,019 : DECISION ON  
PCT No.: PCT/GB2004/001777 :  
Int. Filing Date: 26 April 2004 : PETITION UNDER  
Priority Date: 30 April 2003 :  
Attorney Docket No.: 66455-261-7 : 37 CFR 1.137(b)  
For: DISPOSABLE PRINTER :

This decision is in response to applicants' submission filed 16 November 2005.

### **BACKGROUND**

On 26 April 2004, applicant filed international application PCT/GB2004/001777 which designated the U.S. and claimed a priority date of 30 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 11 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 October 2005 (30 October 2005 being a Sunday).

On 16 November 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, an assertion of small entity status, and a petition under 37 CFR 1.137(b) to revive the application.

### **DISCUSSION**

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 16 November 2005.

As to item (2), applicant submitted the petition fee on 16 November 2005.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

Declaration of Inventors

The declaration of inventors filed 16 November 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 04-2223.

**CONCLUSION**

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

  
Daniel Stemmer  
Legal Examiner  
PCT Legal Affairs  
Office of Patent Cooperation Treaty  
Legal Administration  
Telephone: (571) 272-3301  
Facsimile: (571) 273-0459



# UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450  
www.uspto.gov

DICKSTEIN SHAPIRO LLP  
1633 Broadway  
NEW YORK, NY 10019

Mail Date: 04/20/2010

**Applicant** : Yuki Kusachi : DECISION ON REQUEST FOR  
**Patent Number** : 7662519 : RECALCULATION of PATENT  
**Issue Date** : 02/16/2010 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/557,029 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 09/20/2006 : ISSUE CERTIFICATE OF CORRECTION  
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **784** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 JAN 2007

SUGHRUE MION, PLLC  
2100 PENNSYLVANIA AVENUE, N.W.  
SUITE 800  
WASHINGTON DC 20037

In re Application of	:	
HERTZBERG et al.	:	
Application No.: 10/557,049	:	DECISION ON PETITION
PCT No.: PCT/EP2004/050799	:	
Int. Filing Date: 13 May 2004	:	UNDER
Priority Date: 16 May 2003	:	
Attorney Docket No.: Q-91541	:	37 CFR 1.497(d)
For: APPARATUS FOR GENERATING A	:	
ROTATING LASER BEAM	:	

This decision is in response to applicants' "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" filed in the United States Patent and Trademark Office (USPTO) on 07 December 2006, which has properly been treated as a petition under 37 CFR 1.497(d).

**BACKGROUND**

On 13 May 2004, applicants filed international application PCT/EP2004/050799, which designated the United States and claimed a priority date of 16 May 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 25 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 16 November 2005.

On 16 November 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 21 September 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 07 December 2006, applicants filed the instant "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE", which has properly been treated as a petition under 37

CFR 1.497(d). The petition was accompanied by the surcharge under 37 CFR 1.492(h), two declarations of inventors, statements by Walter Zurcher, Friedrich Durand, and Bruno Knobel, a consent of assignee statement, and a statement under 37 CFR 3.73(b).

**DISCUSSION**

37 CFR 1.497(d), provides:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92<sup>bis</sup> subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in Sec. 1.17(i); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
- (4) Any new oath or declaration required by paragraph (f) of this section.

Items (1) and (3) have been satisfied.

As to item (2), the processing fee has been charged to Deposit Account 19-4880.

Item (4) is not required.

The declaration of inventors filed 07 December 2006 is in compliance with 37 CFR 1.497(a)-(b).

**CONCLUSION**

The request under 37 CFR 1.497(d) is **GRANTED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision including processing the application in the name of Hans Peter Schwob, Joachim Hertzberg, Walter Zurcher, Friedrich Durand, and Bruno Knobel as inventors.



Daniel Stemmer

Legal Examiner

PCT Legal Affairs

Office of Patent Cooperation Treaty

Legal Administration

Telephone: (571) 272-3301; Facsimile: (571) 273-0459

01/16/2007 SBASHEIR 00000001 194000 10557049

01 FC:1464 130.00 DA



STAAS & HALSEY LLP  
SUITE 700  
1201 NEW YORK AVENUE, N.W.  
WASHINGTON DC 20005

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OCT 06 2008

**OFFICE OF PETITIONS**

In re Application of	:	
Naoaki Yamasaki, et al.	:	
Application No. 10/557,052	:	DECISION GRANTING PETITION
Filed: November 16, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1830.1015	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 2, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on September 9, 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.<sup>1</sup>***

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 1793 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams  
Petitions Examiner  
Office of Petitions

<sup>1</sup> The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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17TH FLOOR  
ST LOUIS MO 63102

**MAILED**

**MAY 13 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7,598,403 :  
Salvatore et al. : DECISION ON REQUEST FOR  
Issue Date: October 6, 2009 : RECONSIDERATION OF  
Application No. 10/557,065 : PATENT TERM ADJUSTMENT  
Filed: February 27, 2007 : AND NOTICE OF INTENT  
Attorney Docket No. USO 4580.3 : TO ISSUE CERTIFICATE OF  
Title: Synthesis Of Chromanones : CORRECTION

This is a decision on the petition filed on October 13, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two hundred seventy-six (276) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by three hundred thirty-one (331) days<sup>1</sup> is **GRANTED to the extent indicated herein.**

---

<sup>1</sup> The "A" delay is 57 days, not 526 days. Patentees calculated this period based on the date the application papers were deposited in the Office November 15, 2005. However in an international application the 37 CFR 1.702(a)(1) adjustment is based upon the failure to mail a first Office action or Notice of Allowance within fourteen months after the date the application fulfilled the requirements of 35 U.S.C 371. See 37 CFR 1.702(b). The fulfillment date in this application is February 27, 2007. Thus "A" delay is 57 days, counting the number of days beginning April 28, 2008 and ending June 23, 2008, the day the first Office action was mailed.

The "B" delay period is 324 days. Patentees calculated this period based on the date the application papers were deposited in the Office November 15, 2005. However, in an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 37 CFR 1.702(b). The priority date of this application is May 16, 2003. As a request for early commencement was not made, the national stage commenced in this application on November 16, 2005. Thus, "B" delay is 324 days, counting

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by three hundred thirty-one (**331**) days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.



Anthony Knight  
Director  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,598,403 B2

DATED : **October 6, 2009**

**DRAFT**

INVENTOR(S) : Salvatore 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 7 days

Delete the phrase "by 7 days" and insert – by 331 days--



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Ross J. Oehler  
Cephalon, Inc.  
41 Moores Road  
PO Box 4011  
Frazer, PA 19355

MAILED  
JUN 21 2010  
OFFICE OF PETITIONS

In re Patent No. 7,541,493 :  
Rose : DECISION UPON REMAND AND  
Issue Date: June 2, 2009 : RECONSIDERATION OF  
Application No. 10/557,072 : PATENT TERM ADJUSTMENT  
Filed: April 18 2006 : AND NOTICE OF INTENT  
Attorney Docket No. CP242 : TO ISSUE CERTIFICATE OF  
Title: Modafinil Synthesis : CORRECTION  
Process :

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by five hundred seventy-six (576) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred seventy-six (576) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries

Patent No. 7,541,493      Application No. 10/557,072  
Senior Legal Advisor Attorney  
Office of Patent Legal Administration  
Office of Associate Commissioner  
For Patent Examination Policy

Page 2

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UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,541,493 B2

DATED : June 2, 2009

**DRAFT**

INVENTOR(S) : Rose

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 422 days .

Delete the phrase "by 422 days" and insert – by 576 days--

Day : Thursday  
Date: 6/17/2010

Time: 10:55:09


**PALM INTRANET**
**PTA Calculations for Application: 10/557072**

Application Filing Date:	04/18/2006	PTO Delay (PTO):	422
Issue Date of Patent:	06/02/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	576
PTO Delay Adjustment:	154		

**File Contents History**

Number	Date	Contents Description	PTO	APPL	START
43	06/17/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	154		
36.5	05/13/2009	PTA 36 MONTHS			
36	06/02/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
35	04/29/2009	EXPORT TO FINAL DATA CAPTURE			
34	04/28/2009	DISPATCH TO FDC			
33	04/28/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
32	04/27/2009	ISSUE FEE PAYMENT VERIFIED			
31	04/27/2009	ISSUE FEE PAYMENT RECEIVED			
30	03/11/2009	CORRESPONDENCE ADDRESS CHANGE			
29	03/05/2009	FINISHED INITIAL DATA CAPTURE			
28	02/03/2009	EXPORT TO INITIAL DATA CAPTURE			
27	01/28/2009	MAIL NOTICE OF ALLOWANCE	44		20
26	01/22/2009	ISSUE REVISION COMPLETED			
25	01/22/2009	DOCUMENT VERIFICATION			
24	01/22/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
23	01/22/2009	CASE DOCKETED TO EXAMINER IN GAU			
22	01/21/2009	NOTICE OF ALLOWABILITY			
21	09/19/2008	DATE FORWARDED TO EXAMINER			
20	08/15/2008	RESPONSE AFTER NON-FINAL ACTION			
19	07/24/2008	FILING RECEIPT - CORRECTED			
18	07/23/2008	FILING RECEIPT - CORRECTED			
17	06/30/2008	MAIL NON-FINAL REJECTION	378		-1
16	06/23/2008	NON-FINAL REJECTION			
		INFORMATION DISCLOSURE STATEMENT			

15	05/11/2006	CONSIDERED			
14	01/18/2008	CORRESPONDENCE ADDRESS CHANGE			
13	01/18/2007	PG-PUB ISSUE NOTIFICATION			
12	01/17/2007	CASE DOCKETED TO EXAMINER IN GAU			
11	05/11/2006	REFERENCE CAPTURE ON IDS			
10	01/17/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	04/18/2006	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
8.7	05/11/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	05/11/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	04/18/2006	MISCELLANEOUS INCOMING LETTER			
4	10/11/2006	CLEARED BY OIPE CSR			
3	04/18/2006	371 COMPLETION DATE			
2	10/10/2006	APPLICATION DISPATCHED FROM OIPE			

Search Another: Application#

#### EXPLANATION OF PTA CALCULATION

#### EXPLANATION OF PTE CALCULATION

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APR 23 2010

OFFICE OF PETITIONS

Pepper Hamilton LLP  
400 Berwyn Park  
899 Cassatt Road  
Berwyn PA 19312-1183

In re Patent of Wilson et al. : DECISION ON REQUEST  
Patent No. 7,629,379 : FOR  
Issue Date: December 8, 2009 : RECONSIDERATION OF  
Application No. 10/557,073 : PATENT TERM ADJUSTMENT  
Filed: November 21, 2006 : and  
Atty Docket No. 133088.00601 : NOTICE OF INTENT TO ISSUE  
(P37102US) : CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 15, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred ninety-two (592) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred ninety-two (592) days<sup>1</sup> is **GRANTED to the extent indicated herein.**

<sup>1</sup> The "B" delay period is 386 days, not 388 days. In an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). The priority date of this application is May 17, 2003. As the requirements for early commencement were not met, the national stage commenced in this application on November 17, 2005. Thus, "B" delay is 386 days, counting the number of days beginning on November 18, 2008 and ending on December 8, 2009, the date of issuance. See 1.703(b).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136. See 37 CFR 1.323(a)(4).

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred ninety **(590)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.



Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,629,379 B2

DATED : December 8, 2009

**DRAFT**

INVENTOR(S) : Wilson 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 356 days

Delete the phrase "by 356 days" and insert – by 590 days--



14 JUN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDERMOTT WILL & EMERY LLP  
227 W. MONROE STREET  
CHICAGO, ILLINOIS 60606-6630

In re Application of	:
DIAS, Tilak et al.	:
Application No.: 10/557,074	:
PCT No.: PCT/GB04/02192	:
Int. Filing Date: 19 May 2004	:
Priority Date: 19 May 2003	:
Attorney's Docket No.: 3579 P 004	:
For: Knitted Transducer Devices	:

DECISION ON

PETITION

UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed 27 February 2007, to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Ravindra Wijesiriwarana. The petition under 37 CFR 1.47(a) is DISMISSED.

BACKGROUND

On 19 May 2004, applicants filed international application PCT/GB04/02192, claiming a priority date of 19 May 2003. The thirty-month deadline for paying the basic national fee in the United States expired at midnight on 19 November 2005.

On 17 November 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 and the surcharge for late filing of the oath or declaration. An oath or declaration was not submitted.

On 30 November 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration is required. The notification set a two-month time limit in which to respond.

On 27 February 2007 applicant filed the present petition accompanied by a petition fee, a one-month extension fee, an oath executed by inventors Tilek Dias, Paul Charles William Beatty, William Cooke, Kim Mitcham, William Hurley and Samir Mukhopadhyay, a declaration by Mr. Esmond Hitchcock and copies of e-mails from Ms. Paula Kite and the non-signing inventor Ravindra Wijesiriwarana.

## 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.

With regard 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 applicants' authorization filed with the instant petition on 27 February 2007, an additional amount of \$70.00 will be charged to Deposit Account No. 13-0206.

With regard to item (2), applicants have submitted a statement of the last known address of the missing inventor: Flat E7.3, Victoria Hall, 28 Higher Cambridge Street, Manchester, Lancashire, M15 6AA, Great Britain.

With regard to item (3), MPEP §602.01 states that:

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.

Here, applicants have filed a declaration executed by the other cooperating inventors and containing an unsigned signature block for the non-signing inventor. However, the declaration includes non-initialed and non-dated alterations. See 37 CFR 1.52(c). Specifically, the title of the invention appears handwritten, whereas the application number is typed. Further, the surname "BEATTIE" has been altered to "BEATTY" for inventor Paul Charles William Beatty. Because of the non-initialed and non-dated alterations, a new declaration is required. Hence, item (3) is not satisfied.

With regard to item (4), the evidence submitted to show that non-signing inventor Ravindra Wijesiriwarana has refused to sign the declaration is insufficient. Specifically, the e-mail from Ms. Paula Kite does not indicate that non-signing inventor Ravindra Wijesiriwarana has been presented with a copy of the application papers (specification, drawings, claims and oath or declaration). Although the e-mail indicates her conclusion that "he is unwilling to sign any further documents in relation to this application," the e-mail does not represent a "statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." See MPEP 409.03(d)(II).

Furthermore, the e-mails exchanged between Mr. Esmond Hitchcock and non-signing inventor Ravindra Wijesiriwarana also do not appear to indicate that non-signing inventor Ravindra Wijesiriwarana has been presented with a copy of the application papers (specification, drawings, claims and oath or declaration). In the e-mail message sent 29 December 2006 by non-signing inventor Ravindra Wijesiriwarana, it is not clear to which patent application Mr. Esmond

Hitchcock is referring. Mr. Hitchcock writes that, "I am prosecuting Patent Applications derived from an original Application filed on 19th May 2003" in which "you were named as one of the inventors." Later, he adds that, "[t]he Applications I am prosecuting are based on an International Patent Application...file[d] in 2004, and include[s] material additional to that included in the 2003 Application" (underlining added). Therefore, because additional material has been added, it is not clear whether non-signing inventor Ravindra Wijesiriwaranawas has been apprised of the application to which the oath or declaration is directed. Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature. Copies of documentary evidence such as a certified mail return receipt, cover letter of instructions, telegrams, etc., which support a finding that a complete copy of the application papers had been sent to the applicant should be made a part of the declaration or affidavit.

### CONCLUSION

Applicants' petition to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Ravindra Wijesiriwarana, is **DISMISSED** without prejudice.

A new oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

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.



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17 JAN 2008

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In re Application of:	:	
DIAS, Tilak, et al.	:	DECISION ON RENEWED
U.S. Application No.: 10/557,074	:	PETITION
PCT No.: PCT/GB2004/002192	:	(37 CFR 1.47(a))
Int'l Filing Date: 19 May 2004	:	
Priority Date: 19 May 2003	:	
Atty Docket No.: 3579 P 004	:	
For: KNITTED TRANSDUCER	:	
DEVICES	:	

This decision is issued in response to applicants' renewed petition under 37 CFR 1.47(a) filed 08 November 2007. No additional petition fee is required.

**BACKGROUND**

The procedural background for the present application was set forth in the decision mailed herein on 14 June 2007, which dismissed applicants' petition under 37 CFR 1.47(a) for failure to satisfy the requirements of a grantable petition. Specifically, the decision found that applicant's petition did not include an acceptable declaration executed by the cooperating inventors on their own behalf and on behalf of the non-signing inventor, or an adequate showing that the non-signing inventor had refused to execute the application or cannot be located after diligent effort.

On 08 November 2007, applicants filed the renewed petition considered herein, with required extension fee.

**DISCUSSION**

**1. Revised Declaration**

The renewed petition includes revised declaration materials. However, these declaration materials appears to be a compilation of multiple copies of a four-page declaration, 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 seven-page declaration submitted includes one copy of "Page 1 of 4," one copy of "Page 2 of 4," three different copies of "Page 3 of 4" and two different copies of "Page 4 of 4." Applicants must submit complete declarations acceptable under 37 CFR 1.497 executed by each of the signing

inventors and containing an unsigned signature block for the non-signing inventor in order to satisfy the declaration requirement of a grantable petition.

In addition, the declaration is defective for failure to properly identify the inventors of record herein. Specifically, the last name of the second inventor on the declaration (BEATTY) is different from the last name of record for this inventor, as listed on the published international application (BEATTIE). MPEP section 1893.01(e) states the following regarding changes in an inventor's name:

Where ... the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name. See MPEP § 605.04(c). However, where the discrepancy between the name of the inventor indicated in the international application during the international phase and the name of the inventor as it appears in the oath or declaration submitted under 37 CFR 1.497 is the result of a typographical or transliteration error, then a petition under 37 CFR 1.182 will not be required. In such case, the Office should simply be notified of the error.

In the present application, the discrepancy between the second inventor's name as listed in the international application (BEATTIE) and in the filed declaration (BEATTY) is more than a "typographical or transliteration error." Accordingly, applicants must submit a grantable petition under 37 CFR 1.182 to correct the name of record for the second inventor to correspond with the declaration. If the inventor's name has in fact changed since the filing of the international application, such a petition must include the applicable 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." (See MPEP section 605.04(c)). If, instead, the inventor's name has not changed, but the name was simply spelled erroneously in the international application, the petition under 37 CFR 1.182 must include the appropriate petition fee and a statement from a person with firsthand knowledge regarding the error in the spelling of this inventor's name explaining how the error occurred and confirming that the name listed on the declaration is correct and that the incorrect spelling of the inventor's name in the international application occurred without deceptive intent.

Finally, the declaration includes a non-initialed, non-dated alteration on one copy of "Page 4 of 4," which, as discussed in the previous decision, is unacceptable.

Based on the above, applicants have failed to provide an acceptable declaration executed by the cooperating inventors on their own behalf and on behalf of the non-signing inventor. This element of a grantable petition under 37 CFR 1.47(a) therefore remains unsatisfied.

## **2. Refusal to Sign or Inability to Locate After Diligent Effort**

The decision mailed 14 June 2007 indicated that the materials provided by applicants did not satisfy the requirements set forth in the MPEP for adequately demonstrating that the non-signing inventor has refused to execute the declaration herein.

In the renewed petition, applicants have provided information regarding additional efforts made to obtain the signature of the non-signing inventor. These efforts include unsuccessful attempts to mail a request for signature, accompanied by copies of the complete application, to the non-signing inventor's last known address and to a second possible address for the inventor, as well as the forwarding of these materials to the inventor's last known email address. The renewed petition states that both of the mailings were undeliverable, and no response was received with respect to the email.

The materials included with the renewed petition do not demonstrate that the non-signing inventor has refused to execute the declaration in that the inventor does not appear to have received such materials. Rather than showing a refusal to sign, these materials are relevant to a showing that the non-signing inventor cannot now be found or located.

The MPEP states the following regarding the showing necessary to demonstrate that an inventor cannot be located after diligent effort:

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. ...

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included >in the< statement of facts. It is important that the statement contain facts as opposed to conclusions.

The materials submitted to date are insufficient to show that a diligent effort has been made to locate a current address for the non-signing inventor. Specifically, applicants have not provided a firsthand statement (with supporting documents) showing that an internet search and/or other specific inquiries have been made to identify a current address for this inventor and contact him at such address. Applicants must supply proper evidence of such efforts (including, at a minimum, an internet search) before it can be concluded that the inventor cannot be located after diligent effort.

Based on the above, the present record does not provide an adequate showing that the non-signing inventor has refused to execute the application or cannot be located after diligent effort. Accordingly, this element of a grantable petition also remains unsatisfied.

### CONCLUSION

The renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for

reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the additional materials required to satisfy the outstanding requirements for a grantable petition, as discussed above, in the previous decision, and in the MPEP. No additional petition fee is required.

Failure to file a proper response will result in abandonment of the application.  
Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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0 4 JUN 2008

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CHICAGO, ILLINOIS 60606-6630

In re Application of:	:	
DIAS, Tilak, et al.	:	DECISION ON SECOND
U.S. Application No.: 10/557,074	:	RENEWED PETITION
PCT No.: PCT/GB2004/002192	:	(37 CFR 1.47(a))
Int'l Filing Date: 19 May 2004	:	
Priority Date: 19 May 2003	:	
Atty Docket No.: 3579 P 004	:	
For: KNITTED TRANSDUCER	:	
DEVICES	:	

This decision is issued in response to applicants' second renewed petition under 37 CFR 1.47(a) filed 09 April 2008. No additional petition fee is required.

**BACKGROUND**

The procedural background for the present application was set forth in the decisions mailed herein on 14 June 2007 and 17 January 2008. The decisions dismissed without prejudice applicants' petition under 37 CFR 1.47(a) for failure to satisfy the requirements of a grantable petition. Specifically, the most recent decision found that applicant's petition did not include an acceptable declaration executed by the cooperating inventors on their own behalf and on behalf of the non-signing inventor, or an adequate showing that the non-signing inventor had refused to execute the application or cannot be located after diligent effort.

On 09 April 2008, applicants filed the renewed petition considered herein, with required extension fee.

**DISCUSSION**

**1. Revised Declaration**

The 17 January 2008 decision identified the following defects in the previously filed declaration: (1) the declaration appeared to be an unacceptable compilation of multiple documents; (2) the last name of the second inventor on the declaration (BEATTY) was different from the last name of record for this inventor, as listed on the published international application (BEATTIE); and (3) the declaration included an undated, non-initialed alteration. The present petition is accompanied by complete copies of the declarations executed by each of the signing inventors, and the declarations do not contain any handwritten alterations. The compilation and alteration defects have therefore been resolved.

With respect to the name of the second inventor, the renewed petition confirms that the name of the second inventor is Beatty, as listed on the declaration. The petition also asserts that the error in this inventor's name contained in the international application was the result of a transliteration or typographical error and, as such, correction of the error should not require a petition under 37 CFR 1.182. After consideration of the statements included in the present petition, it is accepted that the error in this inventor's name was the result of a transliteration or typographical error. Accordingly, a petition under 37 CFR 1.182 to correct the inventor's name is not required here.

Based on the above, applicants have resolved the defects in the declaration discussed in the previous decision. The revised declarations filed with the present petition satisfy the requirements of 37 CFR 1.497, and each contains an unsigned signature block for the non-signing inventor. These declarations are acceptable in satisfaction of the declaration requirement for a grantable petition under 37 CFR 1.47(a).

## 2. Refusal to Sign or Inability to Locate After Diligent Effort

The previous decision indicated that the materials provided were not sufficient to demonstrate that a diligent effort has been made to locate a current address for the non-signing inventor. The present submission includes supplemental materials, including a firsthand statement from Esmond A. Hitchcock and the results of an internet search for the named inventor. These materials, in combination with the previously filed materials, are accepted as demonstrating that the non-signing inventor cannot be located after diligent effort. This element of a grantable petition is therefore satisfied.

Based on the above, and the previous decisions mailed herein, applicants have now satisfied all the requirements for a grantable petition under 37 CFR 1.47(a).

### CONCLUSION

The second renewed petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted without the signature of non-signing inventor Ravindra WIJESIRIWARDANA.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the non-signing inventor of the application will be forwarded to the inventor's last-known address, as set forth in the petition. The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 09 April 2008.



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GREAT BRITAIN

In re Application of: DIAS, Tilak, et al.  
U.S. Application No.: 10/557,074  
PCT No.: PCT/GB2004/002192  
Int'l Filing Date: 19 May 2004  
Priority Date: 19 May 2003  
Atty Docket No.: 3579 P 004  
For: KNITTED TRANSDUCER DEVICES

Dear Mr. WIJESIRIWARDANA:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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United States Patent and Trademark Office  
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**MAR 30 2010**

**OFFICE OF PETITIONS**

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RESEARCH TRIANGLE PARK NC 27709-3398

In re Patent No. 7,566,786 : DECISION ON REQUEST  
Baldwin, et al. : FOR  
Issue Date: July 28, 2009 : RECONSIDERATION OF  
Application No. 10/557,079 : PATENT TERM ADJUSTMENT  
Filed: May 23, 2006 : and  
Atty Docket No. PB60271USW : NOTICE OF INTENT TO ISSUE  
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 28, 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 sixty-seven (667) 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 sixty-seven (667) days<sup>1</sup> is **GRANTED to the extent indicated herein.**

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

<sup>1</sup> The "B" delay period is 249 days, not 247 days. This period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). The priority date of this application is May 21, 2003. As early commencement was not requested, the national stage commenced in this application on November 21, 2005. Thus, "B" delay is 249 days, counting the number of days beginning on November 22, 2008 and ending on July 28, 2009, the date of issuance. See 1.703(b).

patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of 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 sixty-nine (669)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.



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 : 7,566,786 B2

DATED : July 28, 2009

DRAFT

INVENTOR(S) : Baldwin, 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 420 days

Delete the phrase "by 420 days" and insert – by 669 days--



NORRIS, MCLAUGHLIN & MARCUS, P.A.  
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In re Application of	:	
Erwin et al.	:	
Application No. 10/557,086	:	
PCT No.: PCT/EP04/05341	:	
Int. Filing Date: 18 May 2004	:	COMMUNICATION
Priority Date: 19 May 2003	:	
Atty. Docket No.: 101769-336-WCG	:	
For: Method For Producing Solvent-	:	
Free UV-Crosslinkable Acrylate	:	
Pressure-Sensitive Adhesives	:	

This is in response to the "Petition For Change In Name Of Inventor" filed on 09 November 2006 and the Response... filed on 01 December 2006, which are being treated together under 37 CFR 1.182.

### BACKGROUND

This international application was filed on 18 May 2004, claimed an earliest priority date of 19 May 2003, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 25 November 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 21 November 2005 (since 19 November 2005 was a Saturday). Applicants filed, *inter alia*, the basic national fee on 17 November 2005.

On 06 November 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring an oath or declaration compliant with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

### DISCUSSION

The signed declaration of the inventors filed on 01 December 2006 nominates the same inventive entity as appears in the published international application, and is in compliance with the requirements of 37 CFR 1.497(a) and (b). However, the "Petition For Change In Name Of Inventor" filed on 09 November 2006 states that "the name of the inventor Jessica Langenbuch has been changed to Jessica Erwin, and it is hereby petitioned that the change be made in the records of the PTO for the application." The accompanying "Declaration" of Jessica Erwin states "that at the time the patent application was filed my name was Jessica LANGENBUCH, and the application was made under that name" and "that since the filing of the application I have married and my married name is Jessica ERWIN." MPEP 605.04(b) states in part that

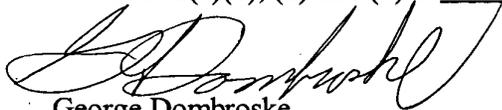
Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.

Since change described above represents more than a mere typographic error or phonetic misspelling of applicant's name, a petition and fee under 37 CFR 1.182 is required. *See also* MPEP MPEP § 201.03(b). The instant petition is being treated under 37 CFR 1.182. Upon consideration of all of the evidence currently of record, it would be appropriate to conclude that the name of inventor Jessica LANGENBUCH nominated in the published international application and in the declaration of inventorship filed on 01 December 2006 has changed to Jessica ERWIN. Accordingly, it would be appropriate to grant the requested relief.

### **CONCLUSION**

The petition is **GRANTED**.

This application is being returned to the National Stage Processing Branch for further processing, including updating the electronic records of the USPTO to change the name of inventor Jessica LANGENBUCH to Jessica ERWIN. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **01 December 2006**.



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05 DEC 2006



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In re Application of :  
EPSTEIN *et al* :  
U.S. Application No.: 10/557,095 :  
PCT No.: PCT/US2004/015974 :  
Int. Filing Date: 21 May 2004 :  
Priority Date: 23 May 2003 :  
Attorney's Docket No.: 3474.1001018 :  
For: METHODS FOR TREATING :  
COGNITIVE IMPAIRMENT AND :  
IMPROVING COGNITION :

**DECISION**

This is a decision on the request to add an inventor in the above-captioned application pursuant to 37 CFR 1.497(d) filed 27 October 2006.

### **BACKGROUND**

On 03 March 2006, a declaration signed by five inventors for the above-captioned national stage application of PCT/US2004/015974 was submitted. However, the international publication ("WO/2005/000203") lists only four inventors for the underlying international application.

On 15 September 2006, a communication was mailed requesting evidence showing that Peter Zarevicks is a proper inventor in the subject application. Applicants were given two months to respond.

On 27 October 2006, applicants filed the subject petition which was accompanied by, *inter alia*, a "Statement Under 37 C.F.R. § 1.497(d)(1)," a consent of the assignee, a copy of an assignment, and a "Statement Under 37 CFR § 3.73(b)."

### **DISCUSSION**

Applicants request to add Peter Zarevicks as an inventor in the above-captioned application. 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this

10/557,095

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 any inventor being removed 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.

Applicants filed a statement by Peter Zarevicks who requests to be added as an inventor in the above-captioned application. Mr. Zarevicks states that the error of omitting my name as a co-inventor in the international application "occurred without deceptive intention on my part." The processing fee of \$130.00 has been paid. A written consent of the assignee signed by the Treasurer of the assignee was also provided. The position of Treasurer in an organization is presumed to have the authority to sign for the organization. See § 324 MPEP. A copy of the assignment and statement under 37 CFR 3.73(b) was also provided.

Therefore, all the requirements of 37 CFR 1.497(d) are complete.

### CONCLUSION

Applicants' request under 37 CFR 1.497(d) is **GRANTED**.

Peter Zarevicks has been added as an inventor in the subject application. As such, the declaration originally filed 03 March 2003 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 21 May 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 03 March 2006.

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision.

  
James Thomson  
Attorney Advisor

**10/557,095**

Office of PCT Legal Administration

Tel.: (571) 272-3302



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
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Brent A Johnson  
Allergan Inc  
2525 Dupont Drive  
T2-7H  
Irvine CA 92612

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**OCT 22 2008**

In re Application of :  
Kimmell, et al. :  
Application No. 10/557,105 : ON PETITION  
Filed: November 14, 2005 :  
Attorney Docket No. 17572-79(AP) :

This is a decision on the petition under 37 CFR 1.137(b), filed August 7, 2008, to revive the above-identified application.

This application became abandoned for failure to timely submit corrected drawings within three (3) months of the mailing of the Notice of Allowability, mailed March 31, 2008. Accordingly, this application became abandoned on July 1, 2008. A Notice of Abandonment was mailed on July 25, 2008.

Applicants have submitted a proper reply in the form of corrected drawings, an acceptable statement of the unintentional nature of the delay in responding to the March 31, 2008 Notice of Allowability, and the petition fee.

The petition is **granted**.

This application is being forwarded to the Office of Data Management for consideration of the drawings filed on August 7, 2008.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

*Shirene Willis Brantley*  
Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions



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KNOBBE MARTENS OLSON & BEAR LLP  
2040 MAIN STREET  
FOURTEENTH FLOOR  
IRVINE CA 92614

**MAILED**  
**JUL 07 2010**  
**OFFICE OF PETITIONS**

In re Application of :  
Dou et al. :  
Application Number: 10/557114 : DECISION ON PETITION  
Filing Date: 11/13/2006 :  
Attorney Docket Number: :  
CCPIT1.001APC :

This is a decision on the petition filed on April 2, 2010, under 37 CFR 1.137(b),<sup>1</sup> to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on October 22, 2009, for failure to timely submit a reply to the non-final Office action mailed on July 21, 2009, which set a three (3)-month shortened statutory period for reply. On February 5, 2010, Notice of Abandonment was mailed.

Receipt of the amendment filed on April 2, 2010, is acknowledged.

<sup>1</sup> 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)).

This application is being referred to Technology Center Art Unit 1797 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions



28 FEB 2008

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC  
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In re Application of:	:	
DEGGERDAL, Arne, et al.	:	
U.S. Application No.: 10/557,124	:	DECISION ON REQUEST UNDER
PCT No.: PCT/EP2004/005998	:	37 CFR 1.497(d)
International Filing Date: 03 June 2004	:	
Priority Date: 04 June 2003	:	
Attorney's Docket No.: 30200/04002	:	
For: PROCESS FOR THE	:	
CONCENTRATION AND/OR	:	
ISOLATION OF NUCLEIC ACID OR	:	
NUCLEIC-ACID CONTAINING	:	
SPECIES	:	

This decision is issued in response to the "Request to Correct Inventorship Of Patent Application Pursuant To 37 CFR 1.497(d)" filed 27 December 2007. Applicant has submitted the required \$130 processing fee.

**BACKGROUND**

On 03 June 2004, applicants filed international application PCT/EP2004/005998. The application claimed a priority date of 04 June 2003, and it designated the United States. On 16 December 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., 04 December 2005.

The published international application identified three applicant/inventors for the United States: Arne DEGGERDAL, Evy H. REITAN, and Vidar SKAGESTAD.

On 17 November 2005, applicants filed a Transmittal Letter for entry into the national stage in the U.S. accompanied by, among other materials, payment of the basic national fee.

On 13 April 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration acceptable under 37 CFR 1.497 was required.

On 03 May 2007, applicants filed a response to the Notification Of Missing Requirements. The response included an executed declaration. However, the declaration was

executed by and named a fourth inventor who was not listed on the international application, Tine THORBJORNSSEN.

On 28 November 2007, the DO/EO/US mailed a "Notification Of Defective Response" (Form PCT/DO/EO/916) indicating that the declaration filed 03 May 2007 was defective based on its inclusion of the fourth inventor, who was not of record.

On 27 December 2007, applicants filed the "Request to Correct Inventorship Of Patent Application Pursuant To 37 CFR 1.497(d)" considered herein. The request seeks to add Tine THORBJORNSSEN as an additional inventor of record.

### DISCUSSION

Where, as here, the filed declaration names an additional inventor who was not identified on the international application, 37 CFR 1.497(d) requires applicant to submit: (1) a statement from each person being added as an inventor that any error in inventorship in the international application occurred without deceptive intent; (2) the processing fee; (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).

Applicants here have submitted the required statement of non-deceptive intent from the inventor to be added, Tine THORBJORNSSEN. Item (1) is therefore satisfied.

Applicants have also submitted the required \$130 processing fee. Item (2) is therefore satisfied.

Regarding item three, applicants have submitted the written consent of the assignee to the addition of the inventor, and the statement of consent complies with the requirements of 37 CFR 3.73(b). Item (3) is therefore satisfied.

Based on the above, applicants have satisfied the requirements of 37 CFR 1.497(d). The inventorship of record herein is therefore appropriately corrected to include added inventor Tine THORBJORNSSEN.

### CONCLUSION

Applicants' request to correct inventorship under 37 CFR 1.497(d) is **GRANTED**.

The inventorship of record herein is corrected to include added inventor Tine THORBJORNSSEN.

Based on the above correction, the declaration filed 03 May 2007 is now acceptable 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 03 May 2007.



Richard M. Ross  
Attorney Advisor  
Office of PCT Legal Administration  
Telephone: (571) 272-3296  
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Jacobs & Kim LLP  
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Waltham, MA 02451-1401

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**FEB 01 2008**

In re Application of	:	<b>OFFICE OF PETITIONS</b>
David Jacobs et al.	:	
Application No. 10/557,132	:	<b>DECISION ON PETITION</b>
Filed: November 17, 2005	:	<b>TO WITHDRAW</b>
Attorney Docket No. UDL-105-US	:	<b>FROM RECORD</b>

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 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 request cannot be approved because there remain less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on August 3, 2007.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

*T. Williams*  
Terri Williams  
Petitions Examiner  
Office of Petitions

cc: **Mark Davies, Esq.**  
**Urquhart-Dykes & Lord**  
**Churchill House**  
**Churchill Way**  
**Cardiff, CF 10 2HH**  
**United Kingdom**



15 NOV 2006

WENDEROTH, LIND & PONACK L.L.P.  
2033 K. STREET, NW  
SUITE 800  
WASHINGTON, DC 20006

In re Application of YAMAMICHI et al	:	
U.S. Application No.: 10/557,148	:	
PCT Application No.: PCT/JP2004/008084	:	DECISION
Int. Filing Date: 03 June 2004	:	
Priority Date Claimed: 04 June 2003	:	
Attorney Docket No.: 2005_1793A	:	
For: CONTENTS DISTRIBUTION SYSTEM. . .	:	

This is in response to the declaration filed 17 November 2005, which is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

**BACKGROUND**

On 03 June 2004, applicant filed international application PCT/JP2004/008084, which claimed priority of an earlier Japan application filed 04 June 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 16 December 2004. The thirty-month period for paying the basic national fee in the United States expired on 04 December 2005.

On 17 November 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 the present request for status under 37 CFR 1.42.

**DISCUSSION**

The declaration states that joint inventor Masato Yamamichi is deceased.

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Although the declaration is executed by three heirs of Masato Yamamichi, there is no indication that they are the sole heirs of the deceased inventor. That is, there may be other heirs who are also required to sign the declaration. Applicant is advised that a statement of explanation would be sufficient, and a newly executed declaration is not required in order to correct this particular deficiency.

However, the declaration is defective because it does not list the citizenship of Masato Yamamichi as required by CFR 1.497(a)(3).

MPEP 602.01 states in relevant part,

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. However, in some cases, a deficiency in the oath or declaration can be corrected by a supplemental paper such as an application data sheet (see 37 CFR 1.76 and MPEP § 601.05) and a new oath or declaration is not necessary. See 37 CFR 1.63(c)(1) and (c)(2).

MPEP 601.05 states in relevant part,

The naming of the inventors and the setting forth of the citizenship of each inventor must be provided in the oath or declaration under 37 CFR 1.63 (as is required by 35 U.S.C. 115) even if this information is provided in the application data sheet.

Accordingly, either a newly executed oath/declaration or a supplemental oath/declaration (see MPEP 603) is required.

Applicant is advised that the submission of a declaration executed by the heir(s) of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

### CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is DISMISSED without prejudice.

If reconsideration on the merits of the request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Bryan Lin  
PCT Legal Examiner  
PCT Legal Office

Telephone: 571-272-3303  
Facsimile: 571-273-0459



26 JAN 2007

WENDEROTH, LIND & PONACK L.L.P.  
2033 K. STREET, NW  
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WASHINGTON, DC 20006

In re Application of YAMAMICHI et al	:	
U.S. Application No.: 10/557,148	:	
PCT Application No.: PCT/JP2004/008084	:	DECISION
Int. Filing Date: 03 June 2004	:	
Priority Date Claimed: 04 June 2003	:	
Attorney Docket No.: 2005_1793A	:	
For: CONTENTS DISTRIBUTION SYSTEM. . .	:	

This is in response to the "Renewed Petition Under 37 CFR 1.42" filed 12 January 2007.

**BACKGROUND**

On 03 June 2004, applicant filed international application PCT/JP2004/008084, which claimed priority of an earlier Japan application filed 04 June 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 16 December 2004. The thirty-month period for paying the basic national fee in the United States expired on 04 December 2005.

On 17 November 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 request for status under 37 CFR 1.42.

On 15 November 2006, this Office mailed a decision dismissing the 17 November 2005 request for status.

On 12 January 2007, applicant filed the present renewed request for status under 37 CFR 1.42.

**DISCUSSION**

The declaration states that joint inventor Masato Yamamichi is deceased.

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

The declaration submitted with the renewed petition is in compliance with 37 CFR 1.42 and 37 CFR 1.497.

**CONCLUSION**

For the reasons above, the renewed request for status under 37 CFR 1.42 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 03 June 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 12 January 2007.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

*Bryan Lin*

Bryan Lin  
PCT Legal Examiner  
PCT Legal Office

Telephone: 571-272-3303  
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WASHINGTON DC 20006

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**FEB 19 2008**

**OFFICE OF PETITIONS**

Applicant: Yamamichi et al.

Appl. No.: 10/557,148

International Filing Date: June 3, 2004

Title: : CONTENTS DISTRIBUTION SYSTEM, RECORDING APPARATUS, SIGNATURE APPARATUS, CONTENTS SUPPLY APPARATUS, AND CONTENTS PLAYBACK APPARATUS

Attorney Docket No.: 2005\_1793A

Pub. No.: 2007/0112685 A1

Pub. Date: May 17, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on June 28, 2007, 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 only includes one of the six inventors and lists the 35 USC §371(c)(1), (2), and (4) date as January 2, 2007.

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.<sup>1</sup>

The instant request does not identify a material mistake in the publication made by the Office, as omitting the inventor’s name on the front page of the publication does not constitute a material error under 37 CFR 1.221(b). Furthermore, while the failure to include the proper §371 date on the front page of the published patent application is an Office error, it is not a material error as required by 37 CFR 1.221(b). The errors are not material mistakes because they do not affect the

<sup>1</sup>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).

public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The error **does not affect the use** of the patent application publication as a **prior art reference**, because the §371(c)(1)(2) and (4) date is not useable as a reference date. See 35 USC §102(e).

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



30 MAR 2006

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United States Patent and Trademark Office  
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37578  
DORT PARTNERS IP, PLLC  
Box 66148 Washington Square Station  
Washington, DC 20035

In re Application of  
DORT, David Bogart  
Application No.: 10/557,155  
PCT No.: PCT/US2004/017753  
Int. Filing Date: 04 June 2004  
Priority Date: 04 June 2003  
Attorney's Docket No.: VRBA.P002 US2  
For: MOTION DETECTION SAMPLING FOR  
WRITING AND TRACKING  
INSTRUMENTS

**DECISION**

This application is before the Office of PCT Legal Administration for matters arising under 35 U.S.C. 371.

**BACKGROUND**

On 17 November 2005, applicants filed papers to enter the national stage of PCT/US2004/017753 using attorney docket number VRBA.P002 US2 which were accompanied by, *inter alia*, a preliminary amendment canceling claims 1 - 28. This application was processed as the national stage of PCT/US2004/017753 and given U.S. application No. 10/557,155. The Basic National Fee of \$150.00 was charged to counsel's Deposit Account No. 50-3068 as authorized.

On the same day, applicants filed a separate set of papers to enter the national stage of PCT/US2004/017753 using attorney docket number VRBA.P002 US1 which were accompanied by, *inter alia*, a different preliminary amendment. These papers were processed and given number U.S. application No. 10/557,156. The Basic National Fee of \$150.00 was also charged to counsel's Deposit Account.

**DISCUSSION**

As is evident from the above recited facts, two sets of papers to enter the national stage under 35 U.S.C. 371 were submitted for international application PCT/US2004/017753. The end result for an international application designating the United States of America is a single U.S. national stage application.

Therefore, the submission of two sets of national stage papers to enter the United States was improper.

### CONCLUSION

Both applications will be merged into one national stage application for PCT/US2004/017753.

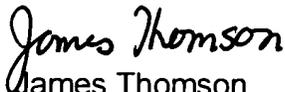
Applicant is advised that U.S. application No. 10/557,156 is no longer a valid U.S. application. Applicants must use only U.S. application No. **10/557,155** and attorney docket number VRBA.P002 US2 for all correspondence to the national stage application of PCT/US2004/017753.

The \$150.00 in fees paid in U.S. application No. 10/557,156 have been credited back to Deposit Account No. 50-3068.

A review of the merged application shows that the two preliminary amendments filed are conflicting. Applicant must address which preliminary amendment is valid in the above-captioned national stage case.

Applicant is entitled, subject to 37 CFR 1.78(a)(2)(ii), to claim benefit under 35 U.S.C. 120 of the filing date of the above-identified national stage application for the common subject matter. In order to obtain benefit of the earlier application, applicant must amend the beginning of the specification by inserting a proper reference to the parent application. Alternatively, applicant may submit an application data sheet with the benefit claim included therein.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



James Thomson  
Attorney Advisor  
Office of PCT Legal Administration

Tel.: (571) 272-3302



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**JUN 2 2 2009**

**OFFICE OF PETITIONS**

MORGAN LEWIS & BOCKIUS LLP  
1111 PENNSYLVANIA AVENUE NW  
WASHINGTON DC 20004

In re Application of :  
David Burton :  
Application No. 10/557,185 : ON PETITION  
Filed: March 16, 2006 :  
Attorney Docket No. 102203-5004 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 14, 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 July 25, 2008. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on October 26, 2008. The Office mailed a Notice of Abandonment on February 6, 2009.

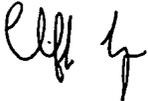
With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of a continuation application.

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. 12/465,742, filed May 14, 2009.

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.

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 \$555.00 extension of time fee submitted with the petition on May 14, 2009 was subsequent to the maximum period obtainable for reply (January 25, 2009), this fee has been refunded to petitioner's Deposit Account 50-0310.

Telephone inquiries concerning 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

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**WASHINGTON DC 20004**

**COPY MAILED**

**SEP 04 2009**

In re Application of : **OFFICE OF PETITIONS**  
David Burton :  
Application No. 10/557,186 : **DECISION ON PETITION**  
Filed: November 17, 2005 :  
Attorney Docket No. 102203-5001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 7, 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 September 22, 2008, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$555.00 extension of time fee submitted with the petition on July 7, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2437 for appropriate action by the Examiner in the normal course of business on the reply received July 7, 2009.

/KOC/  
Karen Creasy  
Petitions Examiner  
Office of Petitions



16 OCT 2006

Jeffrey R. Filipek  
Wenderoth, Lind & Ponack, LLP  
2033 "K" Street, N.W., Suite 800  
Washington, D.C. 20006-1021

In re Application of	:	
YAMAMICHI, et al.	:	
Application No.: 10/557,197	:	
PCT No.: PCT/JP04/08085	:	DECISION ON PAPERS
Int. Filing Date: 03 June 2004	:	
Priority Date: 04 June 2003	:	UNDER 37 CFR 1.42
Attorney Docket No.: 2005_1754A	:	
For: INFORMATION PRESENTATION	:	
SYSTEM, MANAGEMENT DEVICE,	:	
AND TERMINAL DEVICE	:	

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 November 2005 is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

**BACKGROUND**

On 03 June 2004, applicant filed international application PCT/JP04/08085, which claimed priority to an earlier application filed 04 June 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 16 December 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 December 2005.

On 17 November 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an assignment document for recording; a First Preliminary amendment and an executed combined declaration and power of attorney.

**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 November 2005 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, residence, and mailing address of both the deceased inventor and the signing heirs per 37 CFR 1.497(a)(3) and 37 CFR 1.63. 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  
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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	:	
YAMAMICHI, et al.	:	
Application No.: 10/557,197	:	
PCT No.: PCT/JP04/08085	:	DECISION ON RENEWED
Int. Filing Date: 03 June 2004	:	
Priority Date: 04 June 2003	:	PETITION UNDER
Attorney Docket No.: 2005_1754A	:	
For: INFORMATION PRESENTATION	:	37 CFR 1.42
SYSTEM, MANAGEMENT DEVICE,	:	
AND TERMINAL DEVICE	:	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.42" filed 20 November 2006 in the United States Patent and Trademark Office (USPTO). No petition fee is due.

**BACKGROUND**

On 16 October 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 20 November 2006, applicant filed the response considered herein.

**DISCUSSION**

As detailed in the 16 October 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

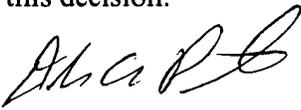
representative has been, nor is required to be, appointed. Therefore, it is appropriate to grant applicant's renewed petition at this time.

**CONCLUSION**

Applicant's renewed request for status under 37 CFR 1.42 is **GRANTED**.

This application has an international application filing date of 03 June 2004 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.



Derek A. Putonen  
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# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
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KENYON & KENYON LLP  
ONE BROADWAY  
NEW YORK, NY 10004

Mail Date: 04/21/2010

**Applicant** : Andreas Streit : DECISION ON REQUEST FOR  
**Patent Number** : 7641291 : RECALCULATION of PATENT  
**Issue Date** : 01/05/2010 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/557,212 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 10/31/2006 : ISSUE CERTIFICATE OF CORRECTION  
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **735** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



14 JUL 2006

WARE FRESSOLA VAN DER SLUYS &  
ADOLPHSON, LLP  
BRADFORD GREEN, BUILDING 5  
755 MAIN STREET, P O BOX 224  
MONROE, CT 06468

In re Application of MAKELA et al	:	
U.S. Application No.: 10/557,218	:	
PCT Application No.: PCT/IB04/00684	:	
Int. Filing Date: 04 March 2004	:	DECISION
Priority Date Claimed: 14 March 2003	:	
Attorney Docket No.: 915-007.014-1	:	
For: METHOD OF INITIATING A WIRELESS	:	
TRANSFER OF DATA. . . .	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 15 November 2005.

**BACKGROUND**

On 04 March 2004, applicant filed international application PCT/IB04/00684, which claimed priority of an earlier United States application filed 14 March 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 23 September 2004. The thirty-month period for paying the basic national fee in the United States expired on 14 September 2005.

International application PCT/IB04/00684 became abandoned as to the United States for failure to timely pay the basic national fee.

On 15 November 2005, applicant filed the present petition under 37 CFR 1.137(b).

**DISCUSSION**

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

### CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a proper oath or declaration in compliance with 37 CFR 1.497 must be filed. The declaration filed with the petition is improper because the name of the fifth inventor is listed as "Pekka Naula" whereas the name of the fifth inventor is listed in the international application as "Naula Pekka". An appropriate petition under 37 CFR 1.497(d) may be required.



Bryan Tung  
PCT Legal Examiner  
PCT Legal Office

Telephone: 571-272-3303

Facsimile: 571-273-0459



WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP  
BRADFORD GREEN, BUILDING 5  
755 MAIN STREET, P O BOX 224  
MONROE CT 06468

**MAILED**

**JUN 15 2010**

**OFFICE OF PETITIONS**

In re Application of :  
MAKELA et al. :  
Application No. 10/557,218 : DECISION ON PETITION  
Filed: March 3, 2008 : UNDER 37 CFR 1.78(a)(3)  
Attorney Docket No. 915-007.014-1 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 15, 2010, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of the prior-filed nonprovisional application.

The petition is **GRANTED**.

A petition for acceptance of a delayed benefit claim under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the benefit claim under 35 U.S.C. 120 is accepted as being unintentionally delayed.

*The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.*

A corrected Filing Receipt, which includes the benefit claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2617 for consideration by the examiner of applicant's entitlement to claim benefit under 35 U.S.C. 120 to the prior-filed application.

*Christina Tartera Donnell*

Christina Tartera Donnell  
Senior Petitions Attorney  
Office of Petitions

**ATTACHMENT:** Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

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Table with 7 columns: APPLICATION NUMBER, FILING or 371(c) DATE, GRP ART UNIT, FIL FEE REC'D, ATTY. DOCKET NO, TOT CLAIMS, IND CLAIMS. Row 1: 10/557,218, 03/03/2008, 2617, 1680, 915-007.014-1, 31, 3

CONFIRMATION NO. 6668

CORRECTED FILING RECEIPT

4955
WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468



Date Mailed: 06/15/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections

Applicant(s)

Jakke Makela, Turku, FINLAND;
Timo Erola, Turku, FINLAND;
Mikko Juhola, Muuria, FINLAND;
Jukka Linjama, Espoo, FINLAND;
Pekka Naula, Piispanristi, FINLAND;

Assignment For Published Patent Application

NOKIA CORPORATION, Espoo, FINLAND

Power of Attorney: The patent practitioners associated with Customer Number 4955

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/IB2004/000684 03/04/2004
which is a CIP of 10/390,548 03/14/2003 PAT 7,724,705

Foreign Applications

If Required, Foreign Filing License Granted: 05/16/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US 10/557,218

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**Title**

Method for Initiating a Wireless Transfer of Data Between at Least Two Electronic Devices,  
Electronic Device and Software Program Therefor

**Preliminary Class**

455

**PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES**

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

**LICENSE FOR FOREIGN FILING UNDER**

**Title 35, United States Code, Section 184**

**Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



22 JUN 2006

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CIBA SPECIALTY CHEMICALS CORPORATION  
Patent Department  
540 White Plains Road  
P.O. Box 2005  
Tarrytown, NY 10591-9005

In re Application of :  
LAINE *et al* :  
Application No.: 10/557,225 :  
PCT No.: PCT/FI2004/000301 :  
Int. Filing Date: 19 May 2004 :  
Priority Date: 21 May 2003 :  
Attorney Docket No.: PK/3-23163/RAI 63 :  
For: A PROCESS FOR THE PREPARATION :  
OF HYDROXY POLYMER ESTERS :  
AND THEIR USE :

**DECISION**

This is a decision on the declaration filed with the national stage papers on 17 November 2005 which has been treated as a petition under 37 CFR 1.42.

**BACKGROUND**

On 17 November 2005, applicants filed papers to enter the national stage of PCT/FI2004/000301 which was accompanied by, *inter alia*, a nine-page declaration.

**DISCUSSION**

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Applicants submitted a declaration executed by five of the six named inventors and by four legal representatives on behalf of a deceased inventor, Kari Nurmi. The citizenship, residence and address of each legal representative are recorded on the declaration pursuant to 37 CFR 1.497(b)(2). In addition, the required information for each inventor (including the deceased inventor) is also properly recorded.

However, the declaration is defective and not in compliance with 37 CFR 1.497(a) and (b) because it is a composite declaration. The declaration consists of one sheet of pages 1 - 4, two page 5's and three page 6's.

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. 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.

### **CONCLUSION**

For the reasons listed above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



James Thomson  
Attorney Advisor  
Office of PCT Legal Administration

Tel.: (571) 272-3302



17 JAN 2007

JoAnn Villamizar  
Patent Department  
540 White Plains Road  
PO Box 2005  
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In re Application of	:	
Laine et al.	:	
Application No. 10/557,226	:	
PCT No.: PCT/FI04/00302	:	
Int. Filing Date: 19 May 2004	:	COMMUNICATION
Priority Date: 21 May 2003	:	
Att. Docket No.:P/R3-23164/A/RAI 64/PCT	:	
For: Process For The Preparation	:	
Of Carnitine And Their Use	:	

This is in response to the declaration of the inventors filed on 17 November 2005, which is being treated under 37 CFR 1.42.

**BACKGROUND**

This international application was filed on 19 May 2004, claimed an earliest priority date of 21 May 2003, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 02 December 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 21 November 2005. Applicants filed, *inter alia*, the basic national fee on 17 November 2005.

**DISCUSSION**

Review of the declaration of the inventors filed on 17 November 2005 reveals that joint inventor Kari NURMI is indicated to be "deceased" and that Merja HOLMA, Kalle NURMI, Anna NURMI and Karin LATINI have signed in the capacity of "legal representative of Kari Nurmi." 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 17 November 2005 reveals that it identifies the citizenship, residence and postal address of the deceased inventor and of each of the legal representatives. However, applicants' 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.**

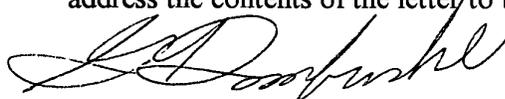
The declaration document filed on 17 November 2005 appears to have been assembled by combining one complete 6-page declaration with two additional, separate 6<sup>th</sup> pages, each signed by a different individual. As such, it is not clear that each signatory executed a complete copy of the declaration.

### 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.



George Dombroske  
PCT Legal Examiner  
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02 APR 2007

JoAnn Villamizar  
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In re Application of	:	
Laine et al.	:	
Application No. 10/557,226	:	
PCT No.: PCT/FI04/00302	:	
Int. Filing Date: 19 May 2004	:	COMMUNICATION
Priority Date: 21 May 2003	:	
Att. Docket No.:P/R3-23164/A/RAI 64/PCT	:	
For: Process For The Preparation	:	
Of Carnitine And Their Use	:	

This is in response to the "New Declaration Filed Under 37 CFR 1.42" filed on 06 March 2007.

**DISCUSSION**

In a Communication mailed on 17 January 2007, the declaration filed on 17 November 2005 was not accepted, without prejudice, because

Review of the declaration of the inventors filed on 17 November 2005 reveals that joint inventor Kari NURMI is indicated to be "deceased" and that Merja HOLMA, Kalle NURMI, Anna NURMI and Karin LATINI have signed in the capacity of "legal representative of Kari Nurmi."...

Further examination of the declaration filed on 17 November 2005 reveals that it identifies the citizenship, residence and postal address of the deceased inventor and of each of the legal representatives. However, applicants' 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.**

The declaration document filed on 17 November 2005 appears to have been assembled by combining one complete 6-page declaration with two additional, separate 6<sup>th</sup> pages, each signed by a different individual. As such, it is not clear that each signatory executed a complete copy of the declaration.

Inspection of the declaration document filed on 06 March 2007 reveals that it satisfies the requirements of 37 CFR 1.42 and 37 CFR 1.497(b)(2).

**CONCLUSION**

The declaration filed on 06 March 2007 is **ACCEPTED** under 37 CFR 1.42.

Counsel's Deposit Account No. 03-1395 is being charged in the amount of \$130.00 for the surcharge under 37 CFR 1.492(h), per the authorization filed on 06 March 2007.

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 **06 March 2007**.



George Dombroske  
PCT Legal Examiner  
Office of PCT Legal Administration  
Tel: (571) 272-3283  
Fax: (571) 273-0459



14 SEP 2006

Sofer & Haroun  
Suite 910  
317 Madison Avenue  
New York, New York 10017

In re Application of  
NACHBAUER et al.  
Application No.: 10/557,231  
PCT No.: PCT/EP04/01957  
Int. Filing Date: 27 February 2004  
Priority Date: 05 March 2003  
Attorney Docket No.: 979-184  
For: CABLE HARNESS FOR MOTOR  
VEHICLES

DECISION ON PETITION  
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 16 November 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 PCT Legal Administration  
Tel.: 571-272-3298  
Facsimile: 571-273-0459



Kevin M. Mason  
RYAN MASON & LEWIS  
1300 Post Road, Suite 205  
Fairfield, CT 06824

30 NOV 2006

In re Application of :  
LAVOIE *et al* :  
U.S. Application No.: 10/557,245 :  
PCT No.: PCT/US2004/014902 :  
Int. Filing Date: 13 May 2004 :  
Priority Date: 16 May 2003 :  
Attorney Docket No.: 1016-2 :  
For: METHODS AND APPARATUS FOR :  
TRACKING CUSTOMER PURCHASES :  
USING A UNIQUE ANONYMOUS :  
IDENTIFIER :

**DECISION**

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 30 October 2006.

**BACKGROUND**

On 27 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) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) & (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 30 October 2006, applicants filed a response to the Form PCT/DO/EO/905 which was accompanied by, *inter alia*, a petition under 37 CFR 1.47(a); a two-month extension and fee; the petition fee; the surcharge fee; a declaration executed by two of the three named inventors; a statement of facts in support of filing on behalf of nonsigning inventor; and exhibits A - D.

**DISCUSSION**

Petitioners claim that Mr. John A. Santini refuses to join in the application and have submitted a petition under 37 CFR 1.47(a) in response to the Form PCT/DO/EO/905 mailed 27 June 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 inventor on their behalf and on behalf of the nonsigning joint inventor.

Concerning item (1), the \$200.00 petition fee has been paid.

With regards to item (3), the last known address of Mr. John A. Santini is recorded as:

85 Red Oak Way  
Wakefield, RI 02879

Concerning item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by two named inventors on their own behalf and on behalf of 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).

Items (1), (3) and (4) of 37 CFR 1.47(a) are satisfied.

Regarding item (2), petitioners claim that the conduct of Mr. Santini constitutes a refusal to join in the subject application and have submitted a statement by Mr. Mason along with exhibits A - D in support of this claim.

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 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 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.

A review of the evidence provided shows that the conduct of Mr. Santini could constitute a refusal to cooperate. However, petitioners have not demonstrated that a complete copy of the application papers (specification, **including claims, and drawings**) were sent to the nonsigning inventor. The cover letter dated 09 November 2005 (and resent on 10 August 2006) is silent on this matter. The cover letter dated 18 August 2006 states only that a copy of the "specification as filed" was included. This is insufficient.

Applicants must show that a complete copy of the application (specification, claims and drawings) were sent to the nonsigning inventor for the refusal to be accepted. If a complete copy of the application including claims and drawings were submitted to Mr. Santini, a statement from counsel attesting to that fact would be sufficient in the renewed petition.

For this reason, item (2) of 37 CFR 1.47(a) is not yet satisfied.

### **CONCLUSION**

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

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

10/557,245

4

Legal Administration.

A handwritten signature in black ink that reads "James Thomson". The signature is written in a cursive style with a large initial "J".

James Thomson  
Attorney Advisor  
Office of PCT Legal Administration

Tel.: (571) 272-3302



09 APR 2007

Kevin M. Mason  
RYAN MASON & LEWIS  
1300 Post Road, Suite 205  
Fairfield, CT 06824

In re Application of :  
LAVOIE *et al* :  
U.S. Application No.: 10/557,245 :  
PCT No.: PCT/US2004/014902 :  
Int. Filing Date: 13 May 2004 :  
Priority Date: 16 May 2003 :  
Attorney Docket No.: 1016-2 :  
For: METHODS AND APPARATUS FOR :  
TRACKING CUSTOMER PURCHASES :  
USING A UNIQUE ANONYMOUS :  
IDENTIFIER :

**DECISION**

This decision is in response to applicants' renewed petition under 37 CFR 1.47(a) filed 29 January 2007.

**BACKGROUND**

On 30 November 2006, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 29 January 2007, applicants filed the renewed petition which was accompanied by, *inter alia*, a "Corrected Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor (37 CFR 1.47(a))."

On 26 March 2007, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating that the date of completion of all 35 U.S.C. 371 requirements and date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements were 29 January 2007.

**DISCUSSION**

As previously indicated, a petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventor on their behalf and on behalf of the nonsigning joint inventor. Items (1), (3) and (4) were completed in the initial petition.

10/557,245

Item (2) was not satisfied solely because applicants failed to demonstrate that a complete copy of the application, including specification,, claims and drawings were sent to the nonsigning inventor.

In the renewed petition, applicants submitted a statement by Kevin M. Mason who declares that the specification, claims and drawings of the subject application were included with the letter sent to Mr. Santini on 18 August 2006. A copy of this letter was previously submitted.

Item (2) of 37 CFR 1.47(a) is now satisfied.

### CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The Form PCT/DO/EO/903 indicated erroneous dates for completion of all 35 U.S.C. 371 and date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements.

As such, the Form PCT/DO/EO/903 mailed 26 March 2007 is **VACATED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 13 May 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **30 October 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



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DPM Dec-08

EDWARDS ANGELL PALMER & DODGE LLP  
P.O. BOX 55874  
BOSTON MA 02205

**COPY MAILED**  
**DEC 05 2008**

In re Application of :  
Chatterjee et al. :  
Application Number: 10/557283 : ON PETITION  
Filing Date: 11/30/2006 :  
Attorney Docket Number: :  
61383(71699) :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed on November 10, 2008.

The application was held abandoned for failure to timely respond to the Office action requiring restriction and/or election mailed on February 21, 2008. Notice of Abandonment was mailed on September 24, 2008.

Petitioner asserts that the Office action requiring restriction and/or election mailed on February 21, 2008, was not received. Petitioner's counsel states that a search of the file jacket and docket records for the application indicates that the restriction requirement was never received. A copy of counsel's docket report has been enclosed with the petition and is referenced in the petition.

A review of the record reveals that the Office action mailed on February 21, 2008, was returned as undeliverable on February 26, 2008. Further, an inspection of the Office' Image File Wrapper system reveals that a copy of the envelope showing that the Office action was returned is located therein, and the address window in the USPTO envelope appears blank. Accordingly, it is concluded that the Office action was returned as undeliverable because the address was not visible through the address window on the envelope mailed by the USPTO.

As such, the showing of record is that there was an irregularity in the mailing, and the Office action was not received as a result of an Office error. For this reason, the practitioner did not receive the Office action requiring restriction and/or election mailed on February 21, 2008.

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.<sup>1</sup>

The petition is **GRANTED**.

No petition fee is due and none has been charged.

The application file is being referred to Technology Center Art Unit 1646 technical support staff for remailing of the Office action requiring restriction and/or election mailed on February 21, 2008. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Any other questions regarding the status of the application or the examination process should be directed to the Technology Center.



Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions

---

<sup>1</sup> See MPEP 707.13. If the Office action was mailed to the correct correspondence address and it was addressed to an attorney or agent, a letter along with a copy of the Office action may be sent to the first named inventor or assignee (if available) informing him or her of the returned action. The time period for reply to the Office action will be restarted to run from the mailing date of the letter informing applicant of the returned action. Id.



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FULBRIGHT & JAWORSKI, L.L.P.  
600 CONGRESS AVE.  
SUITE 2400  
AUSTIN, TX 78701

**COPY MAILED**

**JUL 3 1 2007**

**OFFICE OF PETITIONS**

In re Application of :  
Hoa Thien Dang, et. al. :  
Application No. 10/557,284 :  
Filed: November 18, 2005 :  
Attorney Docket No. ESSR:087US :

**DECISION GRANTING  
PETITION**

This is a decision on the petition filed on January 26, 2007, requesting that the above-identified application be accorded a later filing date of November 18, 2005, rather than the presently accorded date of November 17, 2005.

Petitioner requests the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on November 18, 2005, pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt No. EV674812728US bears a handwritten "date-in" of November 17, 2005, it also includes a USPS receipt date stamp of November 18, 2005. Petitioner is alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service error and the correct date of mailing pursuant to 37 CFR 1.10 is November 18, 2005. The same Express Mail number appears on the original transmittal papers found in the application file.

The evidence presented is convincing that the Express Mail package was entrusted to the USPS on November 18, 2005, as shown by the USPS stamped receipt date. Accordingly, this application is entitled to a filing date of November 18, 2005, and has been so accorded.

In view of the above, the petition is **GRANTED**.

This application file is being referred to the Office of Initial Patent Examination (OIPE) for **correction of the filing date to November 18, 2005 and for issuance of a corrected filing receipt.**

Telephone inquiries relating to this decision should be directed to Andrea Smith at (571) 272-3226. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Frances Hicks  
Petitions Examiner  
Office of Petitions



# UNITED STATES PATENT AND TRADEMARK OFFICE

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THE WEBB LAW FIRM, P.C.  
700 KOPPERS BUILDING  
436 SEVENTH AVENUE  
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

<b>Applicant</b>	: Benedict Marie Doorschodt	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7635341	: RECALCULATION of PATENT
<b>Issue Date</b>	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
<b>Appliction No</b>	: 10/557,286	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 08/24/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **275** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



# UNITED STATES PATENT AND TRADEMARK OFFICE

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MUIRHEAD AND SATURNELLI, LLC  
200 FRIBERG PARKWAY  
SUITE 1001  
WESTBOROUGH, MA 01581

Mail Date: 04/21/2010

<b>Applicant</b>	: Osamu Otaka	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7583285	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/557,287	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 11/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **494** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

**07 AUG 2007**Jones Day  
222 East 41<sup>st</sup> Street  
New York, New York 10017

In re Application of  
ZELDIS  
Application No.: 10/557,302  
PCT No.: PCT/US04/14004  
Int. Filing Date: 05 May 2004  
Priority Date: 15 May 2003  
Attorney Docket No.: 9516-318-999  
For: METHODS FOR TREATMENT OF  
CANCERS USING POLYMORPHIC  
FORMS OF 3-(4-AMINO-1-  
OXO-1,3DIHYDRO-ISOINDOL-2-YL)-PI  
PERIDENE-2,6-DIONE (AS AMENDED)

**NOTIFICATION REGARDING  
DEFECTIVE DECLARATION****AND****REQUIREMENT FOR NEW  
DECLARATION OR REQUEST  
UNDER 37 CFR 1.497(d)**

This communication is to notify applicant that the declaration filed on 10 January 2007 in the above-captioned application is not in compliance with 37 CFR 1.497(a) and that a new declaration or submission under 37 CFR 1.497(d) is required.

**BACKGROUND**

On 05 May 2004, applicants filed the above-captioned international application, which claimed a priority date of 15 May 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 02 December 2004. The international application named Jerome B. Zeldis as applicant/inventor. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 15 November 2005.

On 15 November 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee, a copy of the international application, and an unsigned declaration.

On 26 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.492(a) and (b) and the surcharge 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 10 January 2007, applicants filed a declaration naming as inventors and signed by: Jerome Zeldis; Markian Jaworsky; Géorge Muller; Louise Cameron; Roger Chen and Manohar Saindane.

**DISCUSSION**

The declaration filed 10 January 2007 is not acceptable. Specifically, the declaration sets forth additional inventors (Markian Jaworsky; George Muller; Louise Cameron; Roger Chen and Manohar Saindane.) who have not been named in the international application.

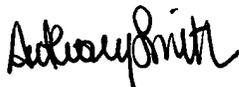
In that an acceptable declaration of the inventor(s) has not been submitted, the application cannot be accepted into the national stage at this time.

Applicant must submit either: 1) a submission under 37 CFR 1.497(d) requesting correction of the inventors named in the international application to include Markian Jaworsky; George Muller; Louise Cameron; Roger Chen and Manohar Saindane., (2) a new declaration naming and signed by only Jerome Zeldis accompanied by an acceptable explanation of the misnaming of the inventor on the present declaration, or (3) a showing that a 92bis change was made prior to the National stage filing. A proper response, as discussed above, must be filed within **ONE (1) MONTH** of the date of mailing of this notification. No extensions of this time limit may be obtained under 37 CFR 1.136(a), since the period for response set forth in the Notification of Missing Requirements has expired.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in § 1.17; 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.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Anthony Smith  
Attorney-Advisor  
Office of PCT Legal Administration  
Tel: (571) 272-3298  
Fax: (571) 273-0459



11 OCT 2007

Jones Day  
222 East 41<sup>st</sup> Street  
New York, New York 10017

In re Application of :  
ZELDIS et al. :  
Application No.: 10/557,302 :  
PCT No.: PCT/US04/14004 :  
Int. Filing Date: 05 May 2004 :  
Priority Date: 15 May 2003 :  
Attorney Docket No.: 9516-318-999 :  
For: METHODS FOR TREATMENT OF :  
CANCERS USING POLYMORPHIC :  
FORMS OF 3-(4-AMINO-1- :  
OXO-1,3DIHYDRO-ISOINDOL-2-YL)-PI- :  
PERIDENE-2,6-DIONE (AS AMENDED)

DECISION ON REQUEST

This decision is issued in response to applicants' "Request for Correction of Inventorship under 37 CFR 1.497(d) or in the Alternative under 37 CFR 1.48(c)" filed 06 September 2007, which is being treated as a Request under 37 CFR 1.497(d). The petition fee has been submitted.

**BACKGROUND**

On 05 May 2004, applicants filed the above-captioned international application, which claimed a priority date of 15 May 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 02 December 2004. The international application named Jerome B. Zeldis as applicant/inventor. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 15 November 2005.

On 15 November 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee, a copy of the international application, and an unsigned declaration.

On 26 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.492(a) and (b) and the surcharge 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 10 January 2007, applicants filed a declaration naming as inventors and signed by: Jerome B. Zeldis; Markian S. Jaworsky; George W. Muller; Louise M. Cameron; Roger

Shen-Chu Chen and Manohar T. Saindane. On 07 August 2007, the Office of PCT Legal Administration mailed a Notification Regarding Defective Declaration and Requirement for New Declaration or Request Under 37 CFR 1.497(d) indicating that the declaration submitted on 10 January 2007 was not acceptable under 37 CFR 1.497.

On 06 September 2007, applicants filed Request for Correction of Inventorship under 37 CFR 1.497(d) or in the Alternative under 37 CFR 1.48(c).

### DISCUSSION

The present submission seeks to correct the inventorship so as to add inventors Markian S. Jaworsky; George W. Muller; Louise M. Cameron; Roger Shen-Chu Chen and Manohar T. Saindane 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.

• Application No.: 10/557,302

3

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.



Anthony Smith

Attorney-Advisor

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Tel: (571) 272-3298

Fax: (571) 273-0459



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**CHALKER FLORES, LLP**  
**2711 LBJ FRWY, Suite 1036**  
**DALLAS TX 75234**

**COPY MAILED**

**SEP 19 2006**

**OFFICE OF PETITIONS**

In re Application of	:	
<b>ROE, Charles</b>	:	
Application No. 10/557,310	:	<b>DECISION ON PETITION</b>
Filed: November 18, 2005	:	<b>TO MAKE SPECIAL UNDER</b>
Attorney Docket No. BHCS:1033	:	<b>37 CFR 1.102(c)(1)</b>
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 17, 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/declaration and driver's license of Charles Roe. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

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 1614 for action on the merits commensurate with this decision.



Denise Pothier  
Petitions Examiner  
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 3/25/09

Paper No.: \_\_\_\_\_

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/557312 Patent No.: 7498276 B2

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)  
South Tower - 9A22  
Palm Location 7580

*Virginia Tolbert*  
Certificates of Correction Branch  
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

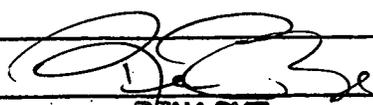
Denied

State the reasons for denial below.

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

  
**RENA DYE**  
SUPERVISORY PATENT EXAMINER

\_\_\_\_\_  
SPE

1794  
Art Unit



0-7 AUG 2007

Paul G. Juettner  
GREER BURNS & CRAIN, LTD.  
Suite 2500  
300 South Wacker Drive  
Chicago, IL 60606

In re Application of :  
VOGEL *et al* :  
U.S. Application No.: 10/557,315 :  
PCT No.: PCT/CH04/00306 :  
Int. Filing Date: 19 May 2004 :  
Priority Date: 21 May 2003 :  
Attorney Docket No.: 0517.74229 :  
For: RAIL ASSEMBLY, RAIL SWITCH AND :  
A TRANSPORT DEVICE PROVIDED :  
WITH A MAGNETORESTRICTIVE :  
SENSOR :

**DECISION**

This decision is in response to applicants' "Petition to Withdraw the Holding of Abandonment Under 37 CFR § 1.137(a) and Alternatively Under 37 CFR § 1.137(b)" filed 24 July 2007.

**BACKGROUND**

On 28 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 was required. A two-month time limit in which to respond was set with extensions of time available pursuant to 37 CFR 1.136(a).

On 12 July 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed for failing to respond to the Form PCT/DO/EO/905 mailed 28 August 2006.

On 24 July 2007, applicants filed the subject petition which was accompanied by, *inter alia*, an executed declaration and surcharge fee; declarations by Paul Juettner, Alfredo Zhagui and John Pionke; a \$500.00 petition fee; a copy of an email and a copy of a computer Case Detail report for the subject application.

**DISCUSSION**

A review of the above-captioned application shows that a timely response to the Form PCT/DO/EO/905 mailed 28 August 2006 was not provided. Accordingly, the above-captioned application was properly abandoned.

Applicants claim that the Form PCT/DO/EO/905 was never received and submitted a petition to revive under 37 CFR 1.137(a) or (b). This is treated as a petition to withdraw the holding of abandonment based upon nonreceipt of an Office action. No fee is required for this petition.

### **Office Action Not Received**

The showing required to establish the failure to receive an Office communication consists of: (1) a statement 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. See MPEP § 711.03(c).

In the petition, counsel attests that "[a]pplicants never received the Notice of Missing Requirements." Counsel also states that he "checked both our paper file and electronic file." These statements satisfy items (1) and (2).

With regards to item (3), petitioner submitted a copy of a computer report containing information on Case Number 74229 with the same title as the subject application. This docket record indicates that the Form PCT/DO/EO/905 mailed 28 August 2006 was not received and processed. However, this evidence is not sufficient to meet item (3) above.

Section 711.03(c) of the MPEP discusses the docket record requirement and states, in part:

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 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.

A single document containing only docket information on the U.S. application in question shows no other corroborating information to add weight and credibility to the information contained therein and can be too easily manipulated. In order to satisfy the docket record requirement to prove nonreceipt of an Office communication, applicants must provide a copy of counsel's docket records for the date upon which a response to the Notification of Missing Requirements was due (*i.e.*, 28 October 2006). An example of such a record would be a daily "tickler" report or a daily log showing all applications

for which a response is due on that date. The docket report showing only the subject application does not satisfy this requirement.

Therefore, applicants have not met all of the requirements required to establish nonreceipt of an Office action.

### CONCLUSION

For the reasons discussed above, applicants' petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The subject 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 under 37 CFR 1.136(a) are authorized.

Applicants' petition to revive under 37 CFR 1.137(a) and (b) will not be considered at this time. The \$500.00 petition fee will be held awaiting applicants' response to 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



23 AUG 2007

Paul G. Juettner  
GREER BURNS & CRAIN, LTD.  
Suite 2500  
300 South Wacker Drive  
Chicago, IL 60606

In re Application of :  
VOGEL *et al* :  
U.S. Application No.: 10/557,315 :  
PCT No.: PCT/CH04/00306 :  
Int. Filing Date: 19 May 2004 :  
Priority Date: 21 May 2003 :  
Attorney Docket No.: 0517.74229 :  
For: RAIL ASSEMBLY, RAIL SWITCH AND :  
A TRANSPORT DEVICE PROVIDED :  
WITH A MAGNETORESTRICTIVE :  
SENSOR :

**DECISION**

This decision is in response to the papers filed via facsimile on 16 August 2007 which are treated as a renewed petition to withdraw the holding of abandonment.

**BACKGROUND**

On 07 August 2007, a decision dismissing applicants' petition filed 24 July 2007 was mailed. Applicants were given two months to respond.

On 16 August 2007, applicants filed the renewed petition which was accompanied by, *inter alia*, a copy of the law firm's docket report of all open matters from 27 - 30 October 2006 and a copy of counsel's docket calendar for all completed matters in that range.

**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. Items (1) and (2) were satisfied in the initial petition.

Regarding item (3), applicants previously submitted a copy of a computer report containing information on the subject application which indicated that the Form

PCT/DO/EO/905 mailed 28 August 2006 was not received and processed. However, the prior decision noted that applicants must also provide a copy of counsel's docket records for the date upon which a response to the Notification of Missing Requirements was due (*i.e.*, 28 October 2006).

In the renewed petition, applicants submitted the required evidence in the form of a copy of the law firm's docket report and a copy of counsel's docket calendar during the period from 27 - 30 October 2006. A review of this evidence shows that the Form PCT/DO/EO/905 was not received. This is sufficient to meet the docket record requirement noted in item (3) above.

Applicants have now met all of the requirements required to establish nonreceipt of an Office action.

### CONCLUSION

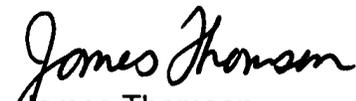
In view of the above, the renewed petition to withdraw the holding of abandonment is GRANTED.

The Notice of Abandonment mailed 12 July 2007 is hereby VACATED.

The \$500.00 petition fee submitted 24 July 2007 is not required and has been credited to Deposit Account No. 07-2069 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 19 May 2004 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 24 July 2007.

This application is being forwarded to the United States Designated/Elected Office for further processing.

  
James Thomson  
Attorney Advisor

Office of PCT Legal Administration

Tel.: (571) 272-3302



BIRDWELL & JANKE, LLP  
1100 SW SIXTH AVENUE  
SUITE 1400  
PORTLAND OR 97204

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OCT 10 2006

**OFFICE OF PETITIONS**

In re Application of	:	
Leslie Mervyn Harrison	:	
Application No. 10/557,321	:	DECISION ON PETITION
Filed: November 18, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. P1147.15005	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 18, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

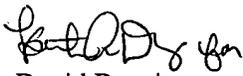
A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a signed Declaration under 37 C.F.R 1.102(c)(1) and a copy of the applicants Birth Certificate stating that applicant 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 Charles Smoot at 571-272-3299.

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 3641 for action on the merits commensurate with this decision.

  
David Bucci  
Petitions Examiner  
Office of Petitions



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JAN 06 2010

OFFICE OF PETITIONS

WELLS ST. JOHN P.S.  
601 W. FIRST AVENUE, SUITE 1300  
SPOKANE, WA 99201

In re Application of :  
Yasuji Ogawa, et al. :  
Application No. 10/557,325 : ON PETITION  
Filed: November 17, 2008 :  
Attorney Docket No. NA28-001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 20, 2009, to revive the above-identified application.

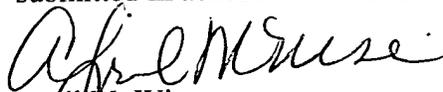
The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 14, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$810, and the submission required by 37 CFR 1.114; (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2629 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



LADAS & PARRY LLP  
26 WEST 61ST STREET  
NEW YORK, NY 10023

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**MAR 05 2008**

**OFFICE OF PETITIONS**

In re Application of

COLMAN, Joshua Lewis et al.

Application No. 10/557,327

Filed: November 27, 2006

Attorney Docket No. U 016035-5

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 February 01, 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 Williams R. Evans 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 Joshua Lewis Colman 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: JOSHUA LEWIS COLMAN  
7 PATEL STREET  
JERUSALEM 97861  
ISRAEL





30 AUG 2006

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www.uspto.gov

Thomas P. Pavelko  
Stevens, Davis, Miller & Mosher, LLP  
1615 L Street, N.W., Suite 850  
Washington, D.C. 20036

In re Application of	:	
SLIMAK	:	
Application No.: 10/557,357	:	
PCT No.: PCT/US04/00224	:	DECISION ON PETITION
Int. Filing Date: 07 January 2004	:	
Priority Date: 07 January 2003	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: TPP31788	:	
For: PRODUCTS FOR TREATING AND	:	
PREVENTING CHRONIC DISEASES:	:	
ELIMINATING THE AUTOIMMUNE TRIGGERS:	:	
THAT UNDERLY CHRONIC DISEASE	:	

The petition to revive under 37 CFR 1.137(b) filed 17 November 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

The application has an international filing date of 07 January 2004 under 35 U.S.C. 363 and will be given a date of **17 November 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen  
Attorney Advisor  
Office of PCT Legal Administration  
Tel: (571) 272-3294  
Fax: (571) 273-0459



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Novak, Druce & Quigg LLP  
1300 I Street, N.W.  
Suite 1000, West Tower  
WASHINGTON DC 20005

MAILED

JUN 15 2009

OFFICE OF PETITIONS

In re Application of  
Karen M. Slimak  
Application No. 10/557,357  
Filed: November 17, 2005  
Attorney Docket No. 8686.005.US0000

:  
:  
:  
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:

DECISION ON PETITION  
TO WITHDRAW  
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 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 request was signed by Thomas P. Pavelko on behalf of all attorneys of record.

All attorneys/agents of record 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 Karen M. Slimak and address of record which is indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571)272-4584.

Ramesh Krishnamurthy  
Petitions Examiner  
Office of Petitions

cc: Karen M. Slimak  
9207 Shotgun Court  
Springfield, VA 22153



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
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www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/557,357	11/17/2005	Karen M. Slimak	8686.005.US0000

**CONFIRMATION NO. 8968**

**POWER OF ATTORNEY NOTICE**



77176  
Novak, Druce & Quigg LLP  
1300 I Street, N.W.  
Suite 1000, West Tower  
WASHINGTON, DC 20005

Date Mailed: 06/04/2009

**NOTICE REGARDING CHANGE OF POWER OF ATTORNEY**

This is in response to the Power of Attorney filed 04/28/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/jlburke/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



15 NOV 2006

ALBIHNS STOCKHOLM AB  
BOX 5581, LINNEGATAN 2  
SE-114 85 STOCKHOLM  
SWEDEN

In re Application of	:	
Roos	:	
Application No. 10/557,366	:	
PCT No.: PCT/IB04/50739	:	
Int. Filing Date: 18 May 2004	:	COMMUNICATION
Priority Date: 19 May 2003	:	
Atty. Docket No.: 72827-82113	:	
For: Cross-Connect Arrangement	:	
And Switch Matrix	:	

This is in response to the declaration of the inventors filed on 06 July 2006, which is being treated under 37 CFR 1.42.

**BACKGROUND**

This international application was filed on 18 May 2004, claimed an earliest priority date of 19 May 2003, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 25 November 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 21 November 2005 (since 19 November 2005 was a Saturday).

Applicant filed, *inter alia*, the basic national fee on 17 November 2005.

On 16 June 2006, a Notice of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

**DISCUSSION**

Review of the declaration of the inventor filed on 06 July 2006 reveals that inventor Sture Roos is indicated to be "deceased" and that Johan Oberg has 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.

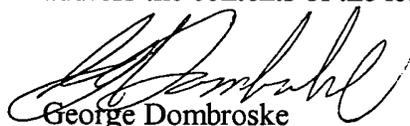
Further examination of the declaration filed on 06 July 2006 reveals that Johan Oberg has signed in the capacity of "legal representative," and that the declaration identifies his citizenship and mailing address. The declaration does not explicitly state Johan Oberg's place of residence. In addition, it does not provide "the facts which the inventor would have been required to state" in that Sture Roos' citizenship, residence and mailing address information is not listed, nor is the residence and/or mailing address provided on an Application Data Sheet. As such, the declaration does not comply with 37 CFR 1.497(b)(2). Accordingly, it would not be appropriate to accept it 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.



George Dombroske  
PCT Legal Examiner  
Office of PCT Legal Administration  
Tel: (571) 272-3283  
Fax: (571) 273-0459



17 SEP 2007

Commissioner for Patents  
United States Patent and Trademark Office  
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Alexandria, VA 22313-1450  
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ALBIHNS STOCKHOLM AB  
BOX 5581, LINNEGATAN 2  
SE-114 85 STOCKHOLM  
SWEDEN

In re Application of  
Roos  
Application No. 10/557,366  
PCT No.: PCT/IB04/50739  
Int. Filing Date: 18 May 2004  
Priority Date: 19 May 2003  
Atty. Docket No.: 72827-82113  
For: Cross-Connect Arrangement  
And Switch Matrix

DECISION

This is in response to the renewed submission under 37 CFR 1.42 (including the declaration) filed on 15 January 2007.

**DISCUSSION**

In a Communication mailed on 15 November 2006, the declaration filed on 06 July 2006 was not accepted under 37 CFR 1.42, without prejudice, because

Further examination of the declaration filed on 06 July 2006 reveals that Johan Oberg has signed in the capacity of "legal representative," and that the declaration identifies his citizenship and mailing address. The declaration does not explicitly state Johan Oberg's place of residence. In addition, it does not provide "the facts which the inventor would have been required to state" in that Sture Roos' citizenship, residence and mailing address information is not listed, nor is the residence and/or mailing address provided on an Application Data Sheet. As such, the declaration does not comply with 37 CFR 1.497(b)(2). Accordingly, it would not be appropriate to accept it under 37 CFR 1.42 at this time.

In response, counsel has now furnished a declaration executed on behalf of Sture Roos by Johan Oberg in the capacity of "legal representative." This declaration document provides the residence, citizenship and mailing address data for both Sture Roos and Johan Oberg. This declaration is acceptable under 37 CFR 1.42 and 1.497(b)(2).

**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 **15 January 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

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KENYON & KENYON LLP  
RIVERPARK TOWERS, SUITE 600  
333 W. SAN CARLOS ST.  
SAN JOSE, CA 95110

Mail Date: 04/21/2010

**Applicant** : Michael Langenbach : DECISION ON REQUEST FOR  
**Patent Number** : 7666065 : RECALCULATION of PATENT  
**Issue Date** : 02/23/2010 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/557,392 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 04/28/2006 : ISSUE CERTIFICATE OF CORRECTION  
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **16** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
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KENYON & KENYON LLP  
RIVERPARK TOWERS, SUITE 600  
333 W. SAN CARLOS ST.  
SAN JOSE, CA 95110

Mail Date: 05/18/2010

**Applicant** : Michael Langenbach : NOTICE CONCERNING IMPROPER  
**Patent Number** : 7666065 : CALCULATION OF PATENT TERM  
**Issue Date** : 02/23/2010 : ADJUSTMENT BASED UPON USPTO  
**Application No** : 10/557,392 : IMPROPERLY MEASURING REDUCTION  
**Filed** : 04/28/2006 : PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **42** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154(b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).



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THE MAXHAM FIRM  
9330 SCRANTON ROAD, SUITE 350  
SAN DIEGO, CA 92121

Mail Date: 04/21/2010

<b>Applicant</b>	: Matthias Britsch	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7593750	: RECALCULATION of PATENT
<b>Issue Date</b>	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/557,396	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 07/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **467** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



Modiano & Associati  
Via Meravigli 16  
Milano 20123 IT ITALY

**COPY MAILED**

**SEP 26 2008**

**OFFICE OF PETITIONS**

In re Application of :  
Lombardi : DECISION ON PETITION  
Application No. 10/557,424 :  
Filed: November 18, 2005 :  
Docket No.: 40364/AJ/LP :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 11, 2008.

This application was held abandoned for failure to timely submit a proper reply to the Notice of Allowance and Issue Fee Due (Notice) mailed February 5, 2008. The Notice set a three month statutory period of time for reply. Notice of Abandonment May 30, 2008.

Petitioner asserts that the issue fee transmittal, which authorized the charging of the issue fee and publication fee to petitioner's deposit account, was timely submitted April 7, 2008 via facsimile in accordance with 37 CFR 1.18. Petitioner has submitted a copy of the reply bearing a certificate of facsimile date of April 7, 2008 in accordance with 37 CFR 1.8.

The original response filed April 7, 2008 has not been located in the application file. However, in view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The copy of the PTOL-85B submitted herewith will be used for examination.

The required issue fee and publication fee have been charged to petitioner's deposit account, as authorized.

The application file is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

  
Alesia M. Brown  
Petitions Attorney  
Office of Petitions



12 JAN 2007

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Ware, Fressola, Van Der Sluys & Adolphson, LLP  
Bradford Green, Building 5  
755 Main Street, P.O. Box 224  
Monroe, CT 06468-0224

In re Application of	:	
CORNISH, Jason Peter	:	
Application No.: 10/557,452	:	DECISION ON PETITION
PCT No.: PCT/GB04/01013	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 09 March 2004	:	
Priority Date: 13 March 2003	:	
Attorney Docket No.: 508-086.002	:	
For: STACKING SYSTEM	:	

The petition to revive under 37 CFR 1.137(b) filed 18 November 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith  
Attorney-Advisor  
Office of PCT Legal Administration  
Tel: (571) 272-3298  
Fax: (571) 273-0459



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**JAN 30 2008**

**DIRECTOR'S OFFICE  
TECHNOLOGY CENTER 2600**

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA VA 22314

In re Application of	:	
OKUBO, AKIRA	:	DECISION ON REQUEST TO
Application No. 10/557,464	:	PARTICIPATE IN PATENT
Filed: November 18, 2005	:	PROSECUTION HIGHWAY
Attorney Docket No. 279526US2PCT	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed December 28, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

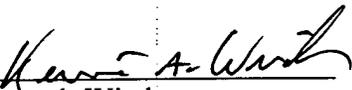
- (1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
- (2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
- (3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
- (4) Examination of the U.S. application has not begun;
- (5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
- (6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
- (7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

  
Kenneth Wieder  
Quality Assurance Specialist  
Technology Center 2600  
Communications



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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.  
2200 CLARENDON BLVD.  
SUITE 1400  
ARLINGTON, VA 22201

Mail Date: 04/20/2010

Applicant : Olivier De Biran : DECISION ON REQUEST FOR  
Patent Number : 7569144 : RECALCULATION of PATENT  
Issue Date : 08/04/2009 : TERM ADJUSTMENT IN VIEW  
Application No : 10/557,472 : OF WYETH  
Filed : 02/20/2007 :  
:  
:

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.

05 MAR 2007



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COOK, ALEX, MCFARRON, MANZO, CUMMINGS & MEHLER LTD  
SUITE 2850  
200 WEST ADAMS STREET  
CHICAGO IL 60606

In re Application of	:	
RAMES-LANGLADE et al.	:	
Application No.: 10/557,499	:	DECISION
PCT No.: PCT/FR2004/001123	:	
Int. Filing Date: 07 May 2004	:	
Priority Date: 21 May 2003	:	
Attorney Docket No.: Serie 6135	:	
For: METHOD AND DEVICE FOR THE	:	
PRODUCTION OF POLYETHYLENE	:	
TEREPHTHALATE PREFORMS	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 10 November 2006 in the United States Patent and Trademark Office (USPTO).

**BACKGROUND**

On 07 May 2004, applicants filed international application PCT/FR2004/001123, which designated the United States and claimed a priority date of 21 May 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 02 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 21 November 2005.

On 17 November 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 07 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required. The NOTIFICATION set a two-month extendable period for response.

On 11 November 2006, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a petition/fee for a three month extension of time, a declaration of inventors, the surcharge under 37 CFR 1.492(h), a statement of facts by Sylvie Mellul-Bendelac, a copy of a letter from non-signing inventor Yves Benjamin to Ms. Rames-Langlade

dated 07 December 2005, a copy of a letter from non-signing inventor Yves Benjamin to Ms. Rames-Langlade dated 21 July 2006, a copy of a letter from a Mr. Dearling to Ms. Melull-Bendelac dated 15 September 2006, a copy of a letter from Ms. Melull-Bendelac to Mr. Dearling dated 19 September 2006, a copy of a DHL mailing label dated 19 September 2006, and a copy of a DHL "Delivery Sheet".

### DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Items (1), (3), and (4) have been satisfied.

Item (2) has not been satisfied. MPEP § 409.03(d) states in part:

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Here, a copy of the application papers including the specification, claims, and drawings was not sent to Mr. Benjamin (or rather to Mr. Dearling who is acting as the representative of Mr. Benjamin) until 19 September 2006. This letter failed to indicate that failure to respond by a certain time would be construed as a refusal to execute the documents. Additionally, it appears that there was no follow-up, e.g., through another letter or a phone call, to the 19 September 2006 letter.

### 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

26 SEP 2007



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HOUSTON TX 77056

In re Application of	:	
RAMES-LANGLADE et al.	:	
Application No.: 10/557,499	:	DECISION
PCT No.: PCT/FR2004/001123	:	
Int. Filing Date: 07 May 2004	:	
Priority Date: 21 May 2003	:	
Attorney Docket No.: Serie 6135	:	
For: METHOD AND DEVICE FOR THE	:	
PRODUCTION OF POLYETHYLENE	:	
TEREPHTHATE PREFORMS	:	

This communication is a remailing of a copy of the decision mailed 05 March 2007. It has come to the Office's attention that the decision was mailed to an incorrect address. Additionally, a change of correspondence address was matched with the application file after mailing of the decision. Accordingly, the decision is being remailed to the new correspondence address. The time limit for response begins with the mailing date of this communication.

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 10 November 2006 in the United States Patent and Trademark Office (USPTO).

**BACKGROUND**

On 07 May 2004, applicants filed international application PCT/FR2004/001123, which designated the United States and claimed a priority date of 21 May 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 02 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 21 November 2005.

On 17 November 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 07 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required.

The NOTIFICATION set a two-month extendable period for response.

On 11 November 2006, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a petition/fee for a three month extension of time, a declaration of inventors, the surcharge under 37 CFR 1.492(h), a statement of facts by Sylvie Mellul-Bendelac, a copy of a letter from non-signing inventor Yves Benjamin to Ms. Rames-Langlade dated 07 December 2005, a copy of a letter from non-signing inventor Yves Benjamin to Ms. Rames-Langlade dated 21 July 2006, a copy of a letter from a Mr. Dearling to Ms. Melull-Bendelac dated 15 September 2006, a copy of a letter from Ms. Melull-Bendelac to Mr. Dearling dated 19 September 2006, a copy of a DHL mailing label dated 19 September 2006, and a copy of a DHL "Delivery Sheet".

### **DISCUSSION**

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Items (1), (3), and (4) have been satisfied.

Item (2) has not been satisfied. MPEP § 409.03(d) states in part:

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Here, a copy of the application papers including the specification, claims, and drawings was not sent to Mr. Benjamin (or rather to Mr. Dearling who is acting as the representative of Mr. Benjamin) until 19 September 2006. This letter failed to indicate that failure to respond by a certain time would be construed as a refusal to execute the documents. Additionally, it appears that there was no follow-up, e.g., through another letter or a phone call, to the 19 September 2006 letter.

### **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

1 2 MAY 2008



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HOUSTON TX 77056

In re Application of :  
RAMES-LANGLADE et al. :  
Application No.: 10/557,499 : DECISION  
PCT No.: PCT/FR2004/001123 :  
Int. Filing Date: 07 May 2004 :  
Priority Date: 21 May 2003 :  
Attorney Docket No.: Serie 6135 :  
For: METHOD AND DEVICE FOR THE :  
PRODUCTION OF POLYETHYLENE :  
TEREPHTHLATE PREFORMS :

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 26 February 2008 in the United States Patent and Trademark Office (USPTO). The petition is **DISMISSED** as **MOOT**.

### **BACKGROUND**

On 07 May 2004, applicants filed international application PCT/FR2004/001123, which designated the United States and claimed a priority date of 21 May 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 02 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 21 November 2005.

On 17 November 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 07 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required. The NOTIFICATION set a two-month extendable period for response.

On 11 November 2006, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a petition/fee for a three month extension of time, a declaration of inventors, the surcharge under 37 CFR 1.492(h), a statement of facts by Sylvie Mellul-Bendelac, a copy of a letter from non-signing inventor Yves Benjamin to Ms. Rames-Langlade dated 07 December 2005, a copy of a letter from non-signing inventor Yves Benjamin to Ms. Rames-Langlade dated 21 July 2006, a copy of a letter from a Mr. Dearling to Ms. Melull-Bendelac dated 15 September 2006, a copy of a letter from Ms. Melull-Bendelac to Mr. Dearling dated 19 September 2006, a copy of a DHL mailing label dated 19 September 2006, and a copy of a DHL "Delivery Sheet".

On 26 September 2007, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) for failure to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort.

On 26 February 2008, applicants filed the instant renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a petition/fee for a three month extension of time and a declaration of inventors executed by Yves Benjamin.

### 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 26 February 2008 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**, 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/

Daniel Stemmer  
Legal Examiner  
PCT Legal Affairs  
Office of Patent Cooperation Treaty  
Legal Administration  
Telephone: (571) 272-3301  
Facsimile: (571) 273-0459



21 MAY 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
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AIR LIQUIDE  
Intellectual Property  
2700 POST OAK BOULEVARD, SUITE 1800  
HOUSTON TX 77056

In re Application of	:	
RAMES-LANGLADE et al.	:	
Application No.: 10/557,499	:	SUPPLEMENTAL
PCT No.: PCT/FR2004/001123	:	
Int. Filing Date: 07 May 2004	:	DECISION
Priority Date: 21 May 2003	:	
Attorney Docket No.: Serie 6135	:	
For: METHOD AND DEVICE FOR THE	:	
PRODUCTION OF POLYETHYLENE	:	
TEREPHTHLATE PREFORMS	:	

This decision is supplemental to the decision mailed 12 May 2008.

The second to last paragraph of that decision indicated that if reconsideration on the merits of the petition was desired, a proper response must be filed within TWO (2) MONTHS of the mailing date of the decision. However, reconsideration of the merits of the petition is not required since the declarations of inventors filed 26 February 2008 were in compliance with 37 CFR 1.497(a)-(b). Accordingly, the second to last paragraph of the decision mailed 12 May 2008 is hereby VACATED.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

/Daniel Stemmer/

Daniel Stemmer  
Legal Examiner  
PCT Legal Affairs  
Office of Patent Cooperation Treaty  
Legal Administration  
Telephone: (571) 272-3301  
Facsimile: (571) 273-0459



JONATHON O NARITA  
EI DU PONT DE NEMOURS AND COMPANY  
LEGAL - PATENTS  
WILMINGTON DE 19898

**COPY MAILED**

**DEC 26 2007**

**OFFICE OF PETITIONS**

In re Application of :  
David L. Hallahan :  
Application No. 10/557,504 : ON PETITION  
Filed: November 21, 2005 :  
Attorney Docket No. CL2077USPCT :

This is a decision on the petition under 37 CFR 1.137(b), filed June 4, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is **not** a final agency decision within the meaning of 5 USC 704.

The above-identified application became abandoned for failure to timely file a proper reply to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequences and/or Amino Acid Sequence Disclosures, mailed September 12, 2006, which set an extendable period for reply of two months. No reply having been received, the application became abandoned on November 13, 2006. The mailing of this decision precedes the mailing of a Notice of Abandonment.

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 instant petition lacks item (1), the required reply.

While petitioner has submitted a Sequence Listing in computer readable form, together with a statement that the computer readable form is identical to the paper copy being submitted, petitioner has not submitted an amendment specifically directing its entry into the application. Accordingly, on renewed petition, petitioner must submit such an amendment.

Further correspondence with respect to this matter should be addressed as follows:

By mail:            Mail Stop Petitions  
                      Commissioner for Patents  
                      P.O. Box 1450  
                      Alexandria VA 22313-1450

By FAX:            (571)273-8300  
                      Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo  
Petitions Attorney  
Office of Petitions



JONATHON O NARITA  
EI DU PONT DE NEMOURS AND COMPANY  
LEGAL - PATENTS  
WILMINGTON DE 19898

**COPY MAILED**

**APR 02 2008**

**OFFICE OF PETITIONS**

In re Application of :  
David L. Hallahan :  
Application No. 10/557,504 : ON PETITION  
Filed: November 21, 2005 :  
Attorney Docket No. CL2077USPCT :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 21, 2008, to revive the above application.

The petition is **GRANTED**.

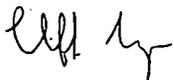
The above-identified application became abandoned for failure to timely file a proper reply to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequences and/or Amino Acid Sequence Disclosures, mailed September 12, 2006, which set n extendable period for reply of two months. No reply having been received, the application became abandoned on November 13, 2006. Applicant filed a petition to revive under 37 CFR 1.137(b) on June 4, 2007. However, the petition was dismissed in a decision mailed on December 26, 2007. The petition was dismissed because applicant did not submit an amendment seeking entry of the sequence listing into the application.

With the instant renewed petition, applicant has submitted the required amendment. The other requirements for a grantable petition were previously met in the petition filed June 4, 2007.

As applicant already paid the petition fee with the first petition, no additional petition fee is required on renewed petition. The \$1,540 petition fee submitted with the instant renewed petition has been refunded to Deposit Account No. 04-1928.

The application is being forwarded to the Office of Patent Application Processing for pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo  
Petitions Attorney  
Office of Petitions



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Alexandria, VA 22313-1450  
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Paper No.

**COPY MAILED**

**JUN 23 2009**

**OFFICE OF PETITIONS**

PIONEER HI-BRED INTERNATIONAL, INC.  
7250 N.W. 62ND AVENUE  
P.O. BOX 552  
JOHNSTON IA 50131-0552

In re Application of :  
David L. Hallahan et al. :  
Application No. 10/557,504 : DECISION ON PETITION  
Filed: November 21, 2005 : PURSUANT TO  
Attorney Docket No.: CL2077 US : 37 C.F.R. § 1.137(A)  
PCT :  
Title: METHOD FOR MANIPULATING :  
GROWTH, YIELD, AND ARCHITECTURE :  
IN PLANTS :

This is a decision on the petition filed May 26, 2009, pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application.

This petition is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (notice), mailed August 4, 2008, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 5, 2008. A notice of abandonment was mailed on May 7, 2009.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. § 1.33(a) sets forth, *in pertinent part*:

(a) Correspondence address and daytime telephone number. When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76 ), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76 (b)(1) and 1.63 (c)(2)) as the correspondence address. **The Office will direct, or otherwise make available, all notices, official letters, and other communications relating to the application to the person associated with the correspondence address** (emphasis added).

The Applicable Standard

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard:

In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference.<sup>1</sup>

[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts clearly demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense.<sup>2</sup>

The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'<sup>3</sup>

---

1 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), *aff'd* without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA) 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

2 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

3 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. .706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942,

Decision on Petition pursuant to 37 C.F.R. § 1.137(a)

The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency.<sup>4</sup>

The burden of showing the cause of the delay is on the person seeking to revive the application.<sup>5</sup>

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."<sup>6</sup>

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.

In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 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).

As such, the general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."<sup>7</sup>

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."<sup>8</sup>

---

945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

4 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

5 Id.

6 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

7 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.

ANALYSIS

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(1);
- (3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, and;
- (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition pursuant to 37 C.F.R. § 1.137(a), Petitioner has included a sequence listing, corrected drawings, the petition fee, and a statement of facts.

The first and second requirements of Rule 1.137(a) have been met. The fourth requirement of Rule 1.137(a) is not applicable, as a terminal disclaimer is not required.<sup>9</sup>

**Regarding the third requirement**, with this petition pursuant to 37 C.F.R. § 1.137(a), Petitioner has explained that she did not receive the notice, as her address was not the official address of record at the time of the mailing of the notice.

Pursuant to 37 C.F.R. § 1.33(a), the Office properly mailed the notice to the official address of record. More than three months after the mailing of the notice to the Assignee, subsequent to the abandonment of this application by law, a power of attorney was filed, executed by an officer of the Assignee.

The present set of facts might result in a finding of unintentional delay, but it does not rise to the level of unavoidable. Petitioner did not receive the notice because at the time of the mailing of the notice, her address was not the official correspondence address of record. The Office properly mailed the notice to the official correspondence address of

---

<sup>8</sup> Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

<sup>9</sup> See Rule 1.137(d).

Decision on Petition pursuant to 37 C.F.R. § 1.137(a)

record (as directed by the instruction contained on the transmittal letter which was submitted with this application on filing). As such, there would have been no reason for the Office to mail the notice to her address.

#### CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Pursuant to 37 C.F.R. § 1.137(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Unless Petitioner believes that she can successfully establish that the entire period of delay was unavoidable, she may wish to file a petition pursuant to the unintentional standard (37 C.F.R. § 1.137(b)).

Any subsequent filing pertaining to the abandonment of this application should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,<sup>10</sup> hand-delivery,<sup>11</sup> or facsimile.<sup>12</sup> Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.<sup>13</sup>

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.<sup>14</sup> All other inquiries

---

10 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

11 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

12 (571) 273-8300- please note this is a central facsimile number.

13 <https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html>

14 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

concerning examination procedures should be directed to the  
Technology Center.



Paul Shanoski  
Senior Attorney  
Office of Petitions



PIONEER HI-BRED INTERNATIONAL INC  
7250 NW 62ND AVENUE  
PO BOX 552  
JOHNSTON IA 50131-0552

**COPY MAILED**

**JUL 30 2009**

**OFFICE OF PETITIONS**

In re Application of :  
Hallahan, et al. :  
Application No. 10/557,504 : ON PETITION  
Filed: November 21, 2005 :  
Attorney Docket No. DD0024 :

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 Notice to Corrected  
Application Papers, mailed August 4, 2008. This Notice set an  
extendable period for reply of two (2) months for applicant to  
replacement drawings and a corrected Sequence Listing. No reply  
having been received, the application became abandoned on  
October 5, 2008. The Office mailed a Notice of Abandonment on  
May 7, 2009.

With the instant petition, applicant paid the petition fee, and  
made the proper statement of unintentional delay. The required  
reply in the form of replacement drawings and a corrected  
Sequence Listing was previously filed on May 26, 2009.

The matter is being forwarded to the Office of Patent Application Processing for pre-examination processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo  
Petitions Attorney  
Office of Petitions



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
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Alexandria, Virginia 22313-1450  
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GKN Driveline/TTG  
c/o Kristin L. Murphy  
39533 Woodward Avenue, suite 140  
Bloomfield Hills, MI 48304

Mail Date: 04/21/2010

<b>Applicant</b>	: Markus Deisinger	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7607986	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/557,505	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 07/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **756** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 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

Lisa A Bongiovi  
Otis Elevator company  
Intellectual Property Dept  
Ten Farm Springs  
Farmington CT 06032

In re Application of	:	
SHIBASAKI et al.	:	
Application No.: 10/557,519	:	DECISION ON PETITION
Filing Date: November 19, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: OT-5302	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 1, 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, by operation of law, the above-identified application became abandoned on August 1, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action mailed May 1, 2007, is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 3654 for appropriate action, if any, on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3301.

/Daniel Stemmer/

Daniel Stemmer  
Legal Examiner  
Office of the Deputy Commissioner  
for Patent Examination Policy



# UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office  
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BOSE MCKINNEY & EVANS LLP  
111 MONUMENT CIRCLE, SUITE 2700  
INDIANAPOLIS, IN 46204

Mail Date: 04/21/2010

**Applicant** : David W Hensley : DECISION ON REQUEST FOR  
**Patent Number** : 7644457 : RECALCULATION of PATENT  
**Issue Date** : 01/12/2010 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/557,524 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 11/08/2006 : ISSUE CERTIFICATE OF CORRECTION  
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **591** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 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

OPPEDAHL & LARSON LLP  
P.O. BOX 5068  
DILLON CO 80435-5068

In re Application of	:	
ABERMAN et al.	:	
Application No.: 10/557,553	:	DECISION ON
PCT No.: PCT/US03/16565	:	
Int. Filing: 22 May 2003	:	PETITIONS UNDER
Priority Date: 14 May 2002	:	
Attorney Docket No.: MLCO.P-004-USNP	:	37 CFR 1.181 & 1.47(a)
For: FINANCIAL INSTRUMENTS AND METHODS	:	

This is a decision on applicants' Submission", a copy of which was filed in the United States Patent and Trademark Office (USPTO) via facsimile on 01 November 2005 and resubmitted on 06 April 2006. The communication is being treated as a petition under 37 CFR 1.181. No petition fee is required.

**BACKGROUND**

On 22 September 2005, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee and petition under 37 CFR 1.47(a). These papers cannot be located.

On 01 and 10 November 2005, applicant filed copy of the originally filed papers including an itemized USPTO date-stamped postcard indicating that, *inter alia*, a transmittal letter, abstract, request for compliance, application data sheet and petition under 37 CFR 1.47. On 6 April 2006, applicant refiled a copy of the papers originally filed on 23 September 2005 requesting their acceptance in lieu of the originally filed papers.

**DISCUSSION**

The original national stage application papers filed on 23 September 2005 are not located in the application file.

As stated in section 503 of the Manual of Patent Examining Procedure (Rev. 2, May 2004)(MPEP):

A postcard receipt which itemizes and properly identifies the papers

which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

A review of the USPTO date-stamped, itemized postcard receipt indicates that the request for national stage entry for this application was deposited with the USPTO on 23 September 2005. The communication filed 06 April 2006 includes a copy of the USPTO date-stamped, itemized postcard receipt itemizing a transmittal letter, abstract, request for compliance, application data sheet, petition under 37 CFR 1.47, PTO-2038, Submission of Information Disclosure Statement, Substitute form 1449 and References.

The evidence submitted by applicant, the postcard receipt date stamped by the USPTO with a deposit date of 23 September 2005, is sufficient to overcome the *prima facie* evidence of the application file itself. Accordingly, it is appropriate to accept the copy of the national stage papers as a replacement for the missing original papers with a deposit date of 23 September 2005.

#### Petition under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(g); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

With respect to Item (1), the fee under 37 CFR 1.17(g) is \$200. Applicant submitted \$130 fee. However, per applicant's authorization, the fee of \$200 will be charged to his deposit account. With regard to Item (2), counsel submitted a first-hand statement of facts, indicating that on 13 and 14 June 2003 a complete copy of the application papers were sent to Mr. Aberman's home and work addresses. A copy of the delivery receipts were attached to the statement. Thereafter, on 18 June 2003, counsel received an email from Mr. Aberman indicating that "I am not planning on doing anything but sitting and waiting for Merrill to make it worth my while to sign." This is sufficient evidence to conclude that Mr. Aberman refuses to sign the application. Item (3) is satisfied with counsel's statement of Mr. Aberman's last known address. As to Item (4), a declarations, in compliance with 37 CFR 1.497(a) and (b), on behalf of the joint inventors and the non-signing inventor Aberman, has been submitted and is acceptable.

The evidence submitted supports a finding that the nonsigning inventor refuses to sign the application for the reasons set forth above. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a).

#### CONCLUSION

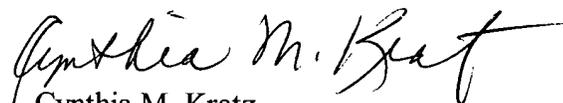
The petition under 37 CFR 1.181 is **GRANTED**. The copy of the national stage application papers originally filed on 23 September 2005 and resubmitted on 06 April 2006 is acceptable and accorded a filing date of 23 September 2005.

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 23 September 2005. The application has an

international filing date of 22 May 2003 under 35 U.S.C. 363, and a date of 23 September 2005 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.



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12 APR 2006

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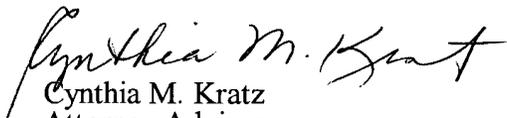
In re Application of  
ABERMAN et al.  
Application No.: 10/557,553  
PCT No.: PCT/US03/16565  
Int. Filing: 22 May 2003  
Priority Date: 14 May 2002  
Attorney Docket No.: MLCO.P-004-USNP  
For: FINANCIAL INSTRUMENTS AND METHODS

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: DECISION ON  
:  
: PETITION UNDER  
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: 37 CFR 1.181  
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Dear Mr. Aberman:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

  
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22 SEP 2006

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In re Application of	:	
ABERMAN et al.	:	
Application No.: 10/557,553	:	
PCT No.: PCT/US03/16565	:	DECISION ON
Int. Filing Date: 22 May 2003	:	
Priority Date: 14 May 2002	:	REQUEST FOR
Attorney's Docket No.: MLCO.P- 004-USNP	:	
For: FINANCIAL INSTRUMENTS AND	:	REFUND
METHODS	:	

This is a decision on applicant's "REQUEST FOR REFUND" pursuant to 37 CFR 1.26, filed in the United States Patent and Trademark Office (USPTO) on 23 May 2006 requesting refund of overpayment of the basic search and examination fees.

On 10 November 2005, applicant filed a transmittal letter to enter national stage along with authorization to charge the basic national fee in the amount of fee \$300. The search fee of \$100 and examination fee of \$200 were charged to the deposit account on 15 May 2006.

On 23 May 2006, applicant filed a request for refund of an \$300 overcharge in the \$100 national stage search fee (fee code 1641) and \$200 national stage examination fee (fee code 1633) paid, where a positive USPTO international preliminary examination report issued and the national search and national examination fees are \$0.

A review of the application file reveals that the USPTO did prepare a positive international preliminary examination report, where the claims meet PCT Article 33(1)-(4). The appropriate national search and examination fees in the above referenced application for filing with a positive USPTO international preliminary examination report where the claims meet PCT Article 33(1)-(4) is \$0. A review of the finance records for this application reveals that applicant was charged \$100 for the national search fee and \$200 for national examination fee, the fee for filing with a USPTO examination report where the claims do not meet PCT Article 33(1)-(4).

For the reasons above, applicants' request for refund of \$300, filed 23 May 2006, is **GRANTED**. Applicant's deposit account No. 15-0610 will be refunded in the amount of \$300 (\$100 national stage search fee (fee code 1641) and \$200 national stage examination fee (fee code 1633)) so that the no national search and examination fees will be paid.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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