SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04-21-09

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/557565 Patent No.: 7482354

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

Angela Green
Certificates of Correction Branch
703-756-1541

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

1623
Art Unit

28 JUL 2008

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

In re Application of	:	
MORKEL, Phillip Michael, et al.	:	
Application No.: 10/557,570	:	DECISION ON
PCT No.: PCT/IB2004/001559	:	
Int. Filing Date: 14 May 2004	:	PETITION
Priority Date: 21 May 2003	:	
Attorney Docket No.: BOWM2.001APC	:	UNDER 37 CFR 1.181
For: TREATMENT OF WATER CONTAINING DISSOLVED GASES	:	

This decision is in response to applicant's "Petition to Withdraw Holding of Abandonment," filed with the United States Patent and Trademark Office on 01 April 2008. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 08 February 2008, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating the application went abandoned for failure to timely reply to the Notification of Missing Requirements mailed 29 January 2007.

On 01 April 2008, applicant submitted the instant petition to vacate the holding of abandonment, accompanied by a declaration of the inventors.

DISCUSSION

Applicant claims to have never received the Notification of Missing Requirements. A review of the application file wrapper and PALM records supports applicant's claim. Office records do not indicate that the Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed. The holding of abandonment is vacated.

Had this petition been evaluated under the showing required to establish nonreceipt of an Office communication a set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993), item (3) would not have been satisfied. The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement). Applicants provided the docket records showing items with the same mail date as the Notification. However, applicants should have furnished the records for items with a response date corresponding to the response date for the Notification (29 March 2007).

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 08 February 2008, is **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of Patent Application Processing for continued processing, including mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the oath or declaration are required.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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02 NOV 2006

Paul J White
National Renewable Energy Laboratory
1617 Cole Blvd
Golden CO 80401

In re Application of	:	
ADNEY et al.	:	
Application No.: 10/557,589	:	DECISION ON
PCT No.: PCT/US2003/006172	:	
Int. Filing Date: 27 February 2003	:	PETITION UNDER
Priority Date: None	:	
Attorney Docket No.: NREL 03-05	:	37 CFR 1.137(b)
For: SUPERACTIVE CELLULASE FORMULATION	:	
USING CELLOBIOHYDROLASE-1 FROM	:	
PENICILLIUM FUNICULOSUM	:	

This decision is in response to applicant's submission filed 17 November 2005.

BACKGROUND

On 27 February 2003, applicants filed international application PCT/US2003/006172 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 16 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 29 August 2005 (27 August 2005 being a Saturday).

On 17 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 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 17 November 2005.

As to item (2), applicant submitted the petition fee on 17 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.

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

28 APR 2006

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Craig M. Lundell
SHELL OIL COMPANY
P.O. Box 2463
Houston, TX 77252-2463

In re Application of :
BRACHT, Maarten *et al* :
U.S. Application No.: 10/557,615 :
PCT No.: PCT/EP2004/050821 :
Int. Filing Date: 17 May 2004 : **DECISION**
Priority Date: 19 May 2003 :
Attorney Docket No.: TS1290US :
For: COMPACT MIXING DEVICE FOR :
HOMOGENIZATION OF FLUID FLOW :

This decision is in response to the "Petition Under 37 C.F.R. 1.182" filed via facsimile on 30 March 2006.

BACKGROUND

On 18 November 2005, petitioners filed a national stage application listing the international application number and other identifying information on the transmittal letter (Form PTO-1390) as PCT/EP2004/050819. All the other papers submitted contain information pertaining to PCT/EP2004/050821. Regardless, the above-captioned application was processed by the United States Designated/Elected Office as the national stage of PCT/EP2004/050819.

On 22 November 2005, counsel filed another national stage application for PCT/EP2004/050819 which was accompanied by, *inter alia*, an executed declaration and specification listing the international application as PCT/EP2004/050819. This application was denoted U.S. application No. 10/557,870; however, it could not be processed as the national stage of PCT/EP2004/050819 as the above-identified application was already listed as the national stage application.

On 30 March 2006, applicants filed the subject petition to correct the PCT number in the subject application which was accompanied by, *inter alia*, a substitute transmittal letter (PTO-1390) papers filed 27 June 2005. Petitioners authorized that the petition fee be charged to Deposit Account No. 19-1800.

DISCUSSION

Applicants state that the "original transmittal letter while containing the correct Attorney's Docket No., contained other identifying information erroneously copies from a transmittal letter in another case owned by the same Assignee." Petitioners request to substitute the original transmittal letter with the transmittal letter filed with the instant petition containing information for PCT/EP2004/050821.

This request is treated as a petition under 37 CFR 1.182. The $400.00 petition fee has been charged to Deposit Account No. 19-1800 as authorized.

A review of the national stage papers including the Preliminary Amendment, Information Disclosure Statement, International Search Report and Form PTO-1449 show that they contain information for PCT/EP2004/050821, not PCT/EP2004/050819. Besides the transmittal letter, there is no indication that applicants intended to file this application as the national stage of PCT/EP2004/050819. Moreover, applicants filed another application on 22 November 2005 requesting to be the national stage of PCT/EP2004/050819.

This evidence is sufficient to show that applicants intended that the subject application is the national stage of PCT/EP2004/050821. The transmittal letter will be substituted to show that the above-captioned application is the national stage of PCT/EP2004/050821.

CONCLUSION

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

Petitioners are reminded to use **PCT/EP2004/050821** as the international application for all future correspondence regarding this application. It is noted that U.S. application No. 10/557,870 has now been processed as the national stage application for PCT/EP2004/050819.

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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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/557,615	12/06/2006	Maarten Bracht	TS1290US	1558

23632 7590 10/01/2009
SHELL OIL COMPANY
P O BOX 2463
HOUSTON, TX 772522463

EXAMINER	
SORKIN, DAVID L	
ART UNIT	**PAPER NUMBER**
1797	
MAIL DATE	**DELIVERY MODE**
10/01/2009	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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SHELL OIL COMPANY
P O BOX 2463
HOUSTON TX 77252-2463

Applicant: Bracht et al.
Appl. No.: 10/557,615
Filing Date: December 6, 2006
Title: PROCESS TO UPGRADE KEROSENES AND A GASOILS FROM NAPHTHENIC AND AROMATIC CRUDE PETROLEUM SOURCES
Attorney Docket No.: TS1290US
Pub. No.: US 2007/0070807 A1
Pub. Date: March 29, 2007

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on September 22, 2009, 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 a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. In addition, the applicant did not provide a copy of the application for publication purposes. 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 and must include a copy of the application in compliance with the Office electronic filing system requirements. The applicant is directed to the following

website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

The applicant is also reminded that any amendments the applicant wishes to include in the publication must be incorporated into the application parts. Amendments that are not incorporated into a clean specification, clean claims listing, etc, will **not** be included in the publication.

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 Data Management at 571-272-4200.

Office of Data Management
United States Patent & Trademark Office

Adjustment date: 10/02/2009 KKING1
09/23/2009 INTEFSW 00001799 191800 10557615
01 FC:1504 300.00 CR

23 JUN 2006

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

In re Application of	:	
Lintner et al.	:	
Application No. 10/557,616	:	
PCT No.: PCT/IB04/50755	:	
Int. Filing Date: 19 May 2004	:	COMMUNICATION
Priority Date: 20 May 2003	:	
Atty. Docket No.: SEDERM 3.3-012	:	
For: Slimming Cosmetic Composition	:	

This is in response to the petition under 37 CFR 1.182 filed on 14 February 2006.

BACKGROUND

This international application was filed on 19 May 2004, claimed an earliest priority date of 20 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 20 November 2005. Applicants filed, *inter alia*, the basic national fee on 18 November 2005.

DISCUSSION

Petitioner requests that the order of inventors' names in the instant application be revised so as to list joint inventor Karl Lintner as the first-named inventor. MPEP 605.04(f) provides that

> The order of names of joint patentees in the heading of the patent is taken from the order in which the typewritten names appear in the original oath or declaration. Care should therefore be exercised in selecting the preferred order of the typewritten names of the joint inventors, before filing, as requests for subsequent shifting of the names would entail changing numerous records in the Office. Since the particular order in which the names appear is of no consequence insofar as the legal rights of the joint applicants are concerned, no changes will be made except when a petition under 37 CFR 1.182 is granted. The petition should be directed to the attention of the Office of Petitions.
>
> The petition to change the order of names must be signed by either the attorney or agent of record or all the applicants. Applicants are strongly encouraged to submit an application data sheet showing the new order of inventor names to ensure appropriate printing of the inventor names in any patent to issue. It is suggested that all typewritten and signed names appearing in the application papers should be in the same order as the typewritten names in the oath or declaration. When the

Office of Petitions grants a petition to change the order of the names of the inventors, the Office of Petitions will change the order of the names in the Office computer records and print a new bib-data sheet, unless the application is an 08/ or earlier series application, in which case, the application should be sent to the Office of Initial Patent Examination (OIPE) for correction on the file wrapper label and the PALM database. >Since a change to the order of the inventor's names is an amendment to the application and amendments are not permitted after the payment of the issue fee (37 CFR 1.312), a petition under 37 CFR 1.182 to change the order of the inventor's name cannot be granted if filed after the payment of the issue fee.< In those instances where the joint applicants file separate oaths or declarations, the order of names is taken from the order in which the several oaths or declarations appear in the application papers unless a different order is requested at the time of filing.

Review of the instant application reveals that no oath or declaration of the inventors has yet been filed, but Claire Mas Chamberlain is the first-listed inventor on the Application Data Sheet filed on 18 November 2005 as well as on the published international application. However, in view of the petition under 37 CFR 1.182, it would be appropriate to revise the records of the USPTO so as to indicate that Karl Lintner is the first-named applicant. Counsel should ensure that this order is preserved when the executed oath or declaration is filed.

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED**.

Petitioner refers to "the petition fee of $130.00," but the proper petition fee under 37 CFR 1.182 is $400.00, per 37 CFR 1.17(f). Therefore, the $400.00 petition fee is being charged to counsel's Deposit Account No. 12-1095, per the authorization included in the petition.

This application is being forwarded to the National Stage Processing Branch for further processing, including updating the electronic records of the USPTO to reflect Karl LINTNER as the first-named inventor, as well as the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

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

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20 NOV 2006

SIMPSON & SIMPSON, PLLC
5555 MAIN STREET
WILLIAMSVILLE, NY 14221-5406

In re Application of	:	
ASENDORF, Knut et al.	:	
Application No.: 10/557,620	:	DECISION
PCT No.: PCT/DE04/00528	:	
Int. Filing Date: 16 March 2004	:	ON PETITION UNDER
Priority Date: 19 March 2003	:	
Docket No.: WSP241US	:	37 CFR 1.137(b)
For: MEANS AND METHOD FOR SEALING CONSTRUCTIONS	:	

Applicants' "Petition For Revival of an International Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 18 November 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) and a translation of the international application into English.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 18 November 2005 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4).

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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CHICAGO, IL 60601-6731

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NOV 23 2009

OFFICE OF PETITIONS

In re Application of Duinveld et al. :
Application No. 10/557,622 : Decision on Petition
Filing Date: November 17, 2005 :
Attorney Docket No. 259374 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2009, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed October 6, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 7, 2009. A Notice of Abandonment was mailed on February 3, 2009.

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), the Office notes the petition was filed with $595 for the issue fee. The Electronic Patent Application Fee transmittal sheet describes the $595 payment as "Plant issue fee." The record fails to indicate the application is a plant application and, in view of the assertion of small entity status in the issue fee transmittal form, the required issue fee is $755. The Office has charged an additional $160 ($755 - $595) to petitioner's deposit account for the issue fee.

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

The Office of Data Management, Patent Publication Branch, will be informed of the instant decision and will issue the application as a patent in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

Mail Date: 04/20/2010

Applicant	: Paulus Cornelis Duinveld	: DECISION ON REQUEST FOR
Patent Number	: 7651957	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/557,622	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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APR 16 2009

OFFICE OF PETITIONS

In re Application of :
Peter Fuhrmann :
Application No. 10/557,632 : ON PETITION
Filed: November 17, 2005 :
Attorney Docket No. DE030177 :

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

The petition is **DISMISSED** because it is unsigned.

37 CFR 1.33(b) states that:

> Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
>
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
>
> (3) An assignee as provided for under §3.71(b) of this chapter; or
>
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Further, 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). The petition does not comply with item (3) above.

Therefore, as the petition containing the statement of unintentional delay is not signed, the petition is considered to not contain a proper statement of unintentional delay.

This decision is made without prejudice to reconsideration. However, any request for reconsideration 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)" and include a ratification of the unsigned petition.

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-Web1

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

1 www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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SAN JOSE, CA 95131

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JUN 10 2009

OFFICE OF PETITIONS

In re Application of
Peter Fuhrmann
Application No. 10/557,632
Filed: November 17, 2005
Attorney Docket No. DE030177

ON PETITION

This is a decision in response to the renewed petition, filed April 28, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed July 3, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 4, 2008. A Notice of Abandonment was mailed on January 26, 2009. On February 11, 2009, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed April 15, 2009. In response, on April 28, 2009, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of 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 $1,620; and (3) an adequate statement of unintentional delay[1].

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

The application is being referred to Technology Center AU 2188 for appropriate action by the Examiner in the normal course of business on the reply received April 28, 2009.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MARK A. WILSON
PMB: 348, 2530 BERRYESSA ROAD
SAN JOSE, CA 95132

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OCT 15 2009

OFFICE OF PETITIONS

Paul, Hastings, Janofsky & Walker, LLP
875 15th Street, NW
Washington, DC 20005

In re Application of :
Anu Elina Wartiovaara et al. :
Application No. 10/557,649 : DECISION ON PETITION
Filed: May 1, 2007 : TO WITHDRAW
Attorney Docket No. 74767.00401.UTL1 : 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 21, 2009.

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

A review of the file record indicates that the power of attorney to Paul, Hastings, Janofsky & Walker, LLP has been revoked by the assignee of the patent application on April 21, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Joseph R. Baker, APC
Gavrilovich, Dodd & Lindsey, LLP
4660 La Jolla Village, Suite 750
San Diego, CA 92122

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/557,649	05/01/2007	Anu Elina Wartiovaara	74767.00401.UTL1

CONFIRMATION NO. 3616

36183
PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, NW
Washington, DC 20005

POWER OF ATTORNEY NOTICE

OC000000038279823

Date Mailed: 10/15/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/21/2009.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Nicholas John Barclay
Unit 2 9 Weeumba Street
Currumbin, Queensland 4223
Australia

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JUL 2 1 2008

OFFICE OF PETITIONS

In re Application of :
Nicholas John Barclay :
Application No. 10/557,651 : DECISION ON PETITION
Filed: November 21, 2005 :
Attorney Docket No. PIPE0113PUSA :

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed June 9, 2008, to revive the above-identified application.

The petition filed under 37 CFR 1.137(a) is **DISMISSED.**

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

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of January 9, 2008. The non-final Office Action set a three (3) month shortened statutory period for reply. No extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on April 10, 2008. It should however be noted that the petition was prematurely filed as the maximum extendable time period did not expire until July 9, 2008. However, since neither an extension of time fee nor an authorization to charge an extension time was presented and the maximum time period has expired the petition is being treated. This decision precedes the mailing of a Notice of Abandonment.

Petitioner maintains that the submission of an amendment was unavoidably delayed due to the failure to receive the non-final Office action mailed on January 9, 2008. Petitioner contends a former counsel failed to notify him of the need to reply within the shortened statutory reply period. Petitioner states the delay was due to an administrative error of former counsel.

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). The instant petition lacks item (3).

Petitioner's argument has been considered but deemed unpersuasive. The fact that a delay may have been caused by a junior staff member does not, *ipso facto*, establish unavoidable delay. For example, "human error" in the form of careless mistakes or the result of a lack of knowledge of USPTO practices and procedures would not establish unavoidable delay. See, e.g., *Haines*, 673 F. Supp. at 317, 5 USPQ2d at 1132; *Vincent v. Mossinghoff*, 230 USPQ 621, 624 (D.D.C. 1985); *Smith v. Diamond*, 209 USPQ 1091 (D.D.C. 1981); *Potter v. Dann*, 201 USPQ 574 (D.D.C. 1978); *Ex parte Murray*, 1891 Dec. Comm'r Pat. 130, 131 (1891).

As set forth in MPEP 711.03(c), a delay resulting from an 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 :

> *A) the error was the cause of the delay;*
>
> *B) there was in place a business routine for performing the clerical 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 has failed to provide evidence that there was a business routine for performing review Office actions received at Pipers Australia, which could reasonably be relied upon. Petitioner has failed to state the junior staff member was trained, experienced and well supervised for the clerical duty in question.

An adequate showing of unavoidable delay due to docket/clerical error may include but not limited to:

> *1) statements by all parties with direct knowledge of the circumstances surrounding the delay;*
> *2) a through explanation of the docketing system in use;*
> *3) identification of the types of records kept;*
> *4) identification of the persons responsible for the maintenance of the system, copies of mail ledger, docket sheets, file wrappers;*
> *6)an indication why the system failed; and*
> *5)information regarding the training provided to the clerk(s) responsible for the docketing error, the degree of supervision of their work.*

It should however be noted the e-mail provided to support the argument that delay was in-part based upon the failure of a junior staff member, fails to state the title of the junior staff member. To the extent the junior staff member was an attorney, a delay resulting from an attorney's preoccupation with other legal matters or with the attorney's inadvertence or mistake is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 USC 151 and 37 CFR 1.137(a) Mossinghoff, 671 F.2d at 536. The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those actions or inactions.[1] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. 133 or 37 CFR 1.137(a).[2] Furthermore, petitioner is reminded that the Patent and Trademark Office is not the proper forum for resolving a dispute between petitioner and petitioner's representative.[3]

Accordingly, petitioner has failed to provide sufficient evidence to establish the failure to submit a reply in response to the non-final Office action was unavoidably delayed.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $770 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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[1] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[2] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

[3] Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995).

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

Charlema Grant
Petitions Attorney
Office of Petitions

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29 OCT 2008

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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

In re Application of:	:	
AALTONEN, et al.	:	
U.S. Application No.: 10/557,654	:	DECISION ON REQUEST UNDER
PCT No.: PCT/IB2004/051025	:	37 CFR 1.497(d)
International Filing Date: 28 June 2004	:	
Priority Date: 26 June 2003	:	
Attorney's Docket No.: 4208-4277	:	
For: PORTABLE BATTERY DRIVEN APPARATUS	:	

This decision is issued in response to the "Submission Under 37 CFR 1.497(d) In Response To Notification Of Defective Response To Notification Of Missing Requirements" filed 20 October 2008 requesting the addition of Timo LAHNALAMPI as an inventor of record herein. Applicants have paid the required $130 processing fee.

BACKGROUND

On 28 June 2004, applicants filed international application PCT/IB2004/051025. The application claimed a priority date of 26 June 2003, and it designated the United States. On 29 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., 26 December 2005. The published international application identified two applicant/inventors for the U.S.: Janne La. AALTONEN and Juha H. SALO.

On 21 November 2005, above-named counsel filed a Transmittal Letter for entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee and an unexecuted declaration.

On 08 December 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed oath or declaration and the surcharge for filing the oath or declaration later than thirty months after the priority date were required. However, the Form PCT/DO/EO/905 was directed to an incorrect address.

On 20 August 2007, the DO/EO/US mailed a "Notification Of Defective Response" (Form PCT/DO/EO/916) indicating that an executed oath or declaration and the surcharge for

filing the oath or declaration later than thirty months after the priority date were required. This Notification was again directed to an incorrect correspondence address.

On 25 August 2008, the DO/EO/US mailed a second "Notification Of Defective Response" (Form PCT/DO/EO/916). This Notification was directed to the same incorrect address as the previous two Notifications.

On 18 September 2008, above-named counsel submitted payment of the required $130 surcharge and a declaration executed by the two inventors of record and a third inventor, Timo LAHNALAMPI.

On 25 September 2008, the DO/EO/US mailed a third "Notification Of Defective Response" (Form PCT/DO/EO/916). This Notification was properly addressed to above-named counsel and it indicated that the declaration filed 18 September 2008 was defective based on its inclusion of the third inventor, who is not of record.

On 20 October 2008, applicants filed the "Submission Under 37 CFR 1.497(d) In Response To Notification Of Defective Response To Notification Of Missing Requirements" considered herein. The submission requests the addition of Timo LAHNALAMPI as an inventor of record and, in light of this correction of inventorship, acceptance of the previously filed declaration.

DISCUSSION

A. Previously Mailed Notifications

As noted above, the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 08 December 2006, the Notification Of Defective Response (Form PCT/DO/EO/916) mailed 20 August 2007, and the Notification Of Defective Response (Form PCT/DO/EO/916) mailed 25 August 2008 were all directed to an incorrect correspondence address. Accordingly, these Notifications are all appropriately vacated.

In addition, because it was not preceded by a properly directed Notification Of Missing Requirements, the Notification Of Defective Response (Form PCT/DO/EO/916) mailed 25 September 2008, even though properly addressed, is also appropriately vacated.

B. Correction Of Inventorship Under 37 CFR 1.497(d)

Section 1893.01(e) of the MPEP states the following regarding changes in the inventorship of an international application entering the national stage (emphasis added):

> The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any changes effected under PCT Rule 92*bis*. See 37 CFR 1.41(a)(4). Accordingly, **an oath or declaration that names an inventive entity different than that set forth in the international application will not be accepted for purposes of entering the U.S. national phase unless the requirements under 37 CFR 1.497(d) are satisfied.** These requirements

> include: (A) 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; (B) the processing fee set forth in 37 CFR 1.17(i); and (C) the written consent of the assignee if an assignment has been executed by any of the original named inventors (see 37 CFR 3.73(b)).

The declaration filed by applicants on 18 September 2008 names an inventive entity different than that set forth in the international application. Specifically, Timo LAHNALAMPI has been added as a third inventor. Accordingly, applicants must satisfy the requirements of 37 CFR 1.497(d) before such declaration can be accepted.

The present submission includes the required statement of non-deceptive intent from the person to be added, Timo LAHNALAMPI, as well as the required processing fee. Requirements (A) and (B) are therefore satisfied. In addition, applicants have submitted the consent of the assignee to the requested change in inventorship, and such consent has been provided in compliance with 37 CFR 3.73(b). Requirement (C) is therefore also satisfied.

Based on the above, applicants have satisfied the requirements of a grantable request to correct the inventors of record under 37 CFR 1.497(d).

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 Timo LAHNALAMPI.

Based on the correction of inventorship, the declaration filed on 18 September 2008 is now acceptable in compliance with 37 CFR 1.497(a) and (b).

The Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 08 December 2006 and the Notifications Of Defective Response (Form PCT/DO/EO/916) mailed 20 August 2007, 25 August 2008, and 25 September 2008 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. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 18 September 2008.

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

05 JUN 2006
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John D. Carpenter
CHRISTIE, PARKER & HALE, LLP
P.O. Box 7068
Pasadena, CA 91109-7068

In re Application of :
BARRIO *et al* :
U.S. Application No.: 10/557,655 :
PCT No.: PCT/US2004/016038 :
Int. Filing Date: 20 May 2004 : **DECISION**
Priority Date: 20 May 2003 :
Attorney's Docket No.: 52638/R68 :
For: METHODS FOR BINDING AGENTS TO :
B-AMYLOID PLAQUES :

This is a decision on the request to add two inventors in the above-captioned application pursuant to 37 CFR 1.497(d) filed 21 November 2005.

BACKGROUND

On 21 November 2005, applicants submitted papers to enter the national stage of PCT/US2004/016038 which was accompanied by, *inter alia*, the subject petition and a declaration listing five inventors.

DISCUSSION

Applicants request to add Vladimir Kepe and Gary M. Small as inventors in the above-captioned application. 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

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

inventors, the written consent of the assignees.

Applicants filed statements by Vladimir Kepe and Gary M. Small requesting to be added as inventors in the above-captioned application. Both Mr. Kepe and Mr. Small state that the "omission of my name as inventor occurred without deceptive intention on my part." The processing fee of $130.00 has been paid. However, applicants have not provided the written consent of the assignee or addressed whether an assignment has been executed in the above-captioned national stage application. (It is noted that the applicant in the corresponding international application is the Regents of the University of California). Applicants must address this item for a grantable petition.

Therefore, all the requirements of 37 CFR 1.497(d) are not yet satisfied.

CONCLUSION

For the reason discussed above, applicants' request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Applicants must address item (3) of 37 CFR 1.497(d) with any response. Extensions of time may be obtained under 37 CFR 1.136(a).

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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17 NOV 2006

John D. Carpenter
CHRISTIE, PARKER & HALE LLP
P.O. Box 7068
Pasadena, CA 91109-7068

In re Application of
BARRIO *et al*
U.S. Application No.: 10/557,655
PCT No.: PCT/US2004/016038
Int. Filing Date: 20 May 2004
Priority Date: 20 May 2003
Attorney's Docket No.: 52638/R68
For: METHODS FOR BINDING AGENTS TO ß-AMYLOID PLAQUES

DECISION

This is a decision on applicants' "Response to Decision" filed on 07 August 2006 requesting to add Vladimir Kepe and Gary M Small as inventors in the subject application.

BACKGROUND

On 05 June 2006, a decision dismissing applicants' petition to add two inventors pursuant to 37 CFR 1.497(d) was mailed. Applicants were given two months to respond with extensions of time available.

On 07 August 2006, applicants filed the renewed petition along with, *inter alia*, a copy of an assignment and a "Consent of Assignee to Add Additional Inventors."

DISCUSSION

As previously indicated, 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or a change to the inventive entity has been effected under PCT Rule 92 bis subsequent to the execution of any declaration which was filed under PCT Rule 4.17(iv), the oath or declaration must be accompanied by:
>
> (1) A statement from each person being added as an inventor

and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17(i); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Applicants previously completed items (1) and (2) of 37 CFR 1.497(d).

In the renewed petition, applicants provided a consent form signed by Cheryl Silverman for The Regents of the University of California. Ms. Silverman declares that she is authorized to sign this consent on behalf of the assignee. Applicants also provided a copy of the assignment signed by all inventors. This is sufficient to meet the requirements of § 324 MPEP and item (3) of 37 CFR 1.497(d).

All items of 37 CFR 1.497(d) are now complete.

CONCLUSION

Applicants' request to add Vladimir Kepe and Gary M Small as inventors in the above-captioned application pursuant to 37 CFR 1.497(d) is **GRANTED**.

The declaration filed 21 November 2005 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 20 May 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 21 November 2005.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS MN 55402-0902

In re Application of:	:
Eberle et al.	:
Serial No.: 10/557,664	: PETITION DECISION
Filed: November 22, 2005	:
Attorney Docket No.: **20039.0003USWO**	:

This is in response to the petition filed February 26, 2009 under 37 CFR § 1.181, requesting that the finality of the Office action of February 20, 2009 be withdrawn.

BACKGROUND

The examiner mailed an Advisory Action on November 5, 2008. In this Advisory Action, the examiner indicated that the claim amendments filed after final Office action [on October 2, 2008] would not be entered because they raised new issues that would require further consideration and/or search (see box 3(a) of the Advisory Action form, PTOL-303).

On December 12, 2008, applicants filed a Request for Continued Examination (RCE) along with the appropriate fees. In this RCE, applicants fulfilled the requirements of 37 C.F.R. § 1.114 and requested that the amendment of October 2, 2008 be entered.

On February 20, 2009, the examiner mailed a final Office action setting a three month statutory limit for reply.

In response thereto, applicants filed this petition on February 26, 2009 under 37 CFR § 1.181, requesting that the finality of the Office action of February 20, 2009 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on February 26, 2009, applicants argue that the final Office action instituted by the Examiner on February 20, 2009 was improper and premature due to the fact that the examiner refused entry of the claim amendments due to new issues after final Office action as indicated by the Advisory Action mailed by the examiner on November 5, 2008.

A review of the prosecution history of this case clearly shows that the examiner refused entry of the amendments filed after final Office action for raising new issues that would require a new consideration and/or search as indicated by the Advisory Action form. Made clearly evident by the MPEP (see below), when a decision to refuse entry of an amendment filed after final Office action is made by the examiner due to an issue which would require a new consideration or search, the next action mailed by the examiner in reply to the filing of an RCE is *precluded from finality*.

> MPEP 706.07(h) (VIII) states:
> The action immediately subsequent to the filing of an RCE with a submission and fee under 37 CFR 1.114 may be made final only if the conditions set forth in MPEP 706.07(b) for making a first action final in a continuing application are met...
>
> MPEP 706.07(b), third paragraph states:
> However, it would not be proper to make final a first Office action in a continuing or substitute application where that application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because (A) new issues were raised that required further consideration and/or search, or (B) the issue of new matter was raised.

Hence, applicants' points are well-taken and found persuasive. It is decided that the final Office action mailed on July 22, 2007 was in fact premature and in error. The finality of said rejection is hereby WITHDRAWN in favor of applicants.

DECISION

The 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 sent to the general Office facsimile number, 703-872-9306.

Remy Yucel
Director, Technology Center 1600

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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS, MN 55402-0902

Mail Date: 04/21/2010

Applicant	: Martin Eberle	: DECISION ON REQUEST FOR
Patent Number	: 7612064	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/557,664	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **5** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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07 JUN 2007

Adriane M. Antler
Jones Day
222 East 41st Street
New York, NY 10017

In re Application of	:	
LEWIS, et al.	:	
U.S. Application No.: 10/557,677	:	DECISION ON REQUEST
PCT No.: PCT/US03/15771	:	
Int. Filing Date: 20 May 2003	:	UNDER 37 CFR 1.48(c)
Priority Date: None	:	
Attorney Docket No.: 8449-308-999	:	
For: COMBINATION CHEMOTHERAPY COMPRISING A LIPOSOMAL PLATINUM COMPLEX	:	

This decision is in response to applicant's "Request For Correction of Inventorship Under 37 CFR § 1.497(d) or in The Alternative Under 37 CFR § 1.48(c)" filed 14 April 2007. For the reasons discussed below, the request will be handled by the examiner of record.

BACKGROUND

On 20 May 2003, applicant filed international application PCT/US03/15771. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 20 November 2005.

On 18 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 a First Preliminary Amendment.

On 13 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 inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 14 April 2007, applicant filed a petition under 37 CFR 1.497(d) to add Krzysztof J. Dziewiszek as a named inventor and the requisite petition fee; a declaration signed by Jonathan Lewis, Axel Hoos, Robert Gale and Krzysztof J. Dziewiszek; and a petition for a four-month extension of time. With the filing of the petition for a four-month extension of time and payment of the appropriate extension of time fee, the present response is considered timely filed.

DISCUSSION

37 CFR 1.497(d) [formally, 37 CFR 1.48] states in part: "If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application....applicant must submit:"

37 CFR 1.497(d) applies to situations where an inventor was mistakenly included or left off an international application and the situation is being rectified in the national stage. Applicant states that in the present situation Krzysztof J. Dziewiszek is being added as an inventor based on the subject matter now claimed in the second preliminary amendment. This situation is addressed by 37 CFR 1.48(c).

As to applicant's petition under 37 CFR 1.48(c), the present national stage application must first be executed by all the named inventors. The filing of a petition under 37 CFR 1.48(c) is not applicable prior to the application being executed by the inventors named in the international application. Under 35 U.S.C. 363, an international application designating the United States has the effect of a national application for a patent regularly filed in the United States. In other words, the U.S. national stage application is considered to have been filed on the international filing date in the names of the inventors/applicants for the United States of America listed on the REQUEST form. The REQUEST indicated Jonathan Lewis, Axel Hoos and Robert Gale as applicants/inventors for the United States of America.

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.

CONCLUSION

For the reasons stated above, the request under 37 CFR 1.48(c) will be held in abeyance pending the filing of a compliant oath or declaration under 37 CFR 1.497. Once the 35 U.S.C. 371 requirements have been satisfied the request will be handled in the group art unit.

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

Derek A. Putonen
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Office of PCT Legal Administration
Tel: (571) 272-3294
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UNITED STATES PATENT AND TRADEMARK OFFICE

28 AUG 2007

Commissioner for Patents
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Adriane M. Antler
Jones Day
222 East 41st Street
New York, NY 10017

In re Application of	:	
LEWIS, et al.	:	
U.S. Application No.: 10/557,677	:	DECISION ON PETITION
PCT No.: PCT/US03/15771	:	
Int. Filing Date: 20 May 2003	:	UNDER 37 CFR 1.10(c)
Priority Date: None	:	
Attorney Docket No.: 8449-308-999	:	
For: COMBINATION CHEMOTHERAPY COMPRISING A LIPOSOMAL PLATINUM COMPLEX	:	

This is a decision on applicant's "Petition Under 37 C.F.R. § 1.10(c) to Accord a Filing Date as of The Date of Deposit With The USPS For a Response Filed" filed 16 August 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 07 June 2007, applicant was mailed a decision holding in abeyance applicant's petition under 37 CFR 1.48(c) pending the filing of a complaint oath or declaration of the inventors named in the international application.

On 16 August 2007, applicant filed the present petition under 37 CFR 1.10 regarding a filing in this application on 12 April 2007 accompanied by an executed declaration.

DISCUSSION

37 CFR 1.10(c) states: Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

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

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

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

Applicant has satisfied all three items above. In addition, a review of the USPS track and confirm website shows a date of acceptance by the USPS of "April 12, 2007, 8:50pm New York, NY" Therefore, it is proper to grant applicant's petition at this time. The response of 12 April 2007 accompanied by a petition for a four-month extension of time is considered a timely response to the Form PCT/DO/EO/905 mailed 13 October 2006.

In addition, a review of the presently filed declaration finds that it is in compliance with 37 CFR 1.497(a)-(b). As such, applicant has satisfied all of the 35 U.S.C. 371 requirements.

CONCLUSION

Applicant's petition under 37 CFR 1.10 is **GRANTED**.

The application will be given an international filing date of 20 May 2003 under 35 U.S.C. 363 and a date of **16 August 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 as detailed above. The application will then be forwarded to the appropriate Group Art Unit for examination and consideration of the petition under 37 CFR 1.48(c) to add Krzysztof J. Dziewiszek as an inventor in the application.

Derek A. Putonen
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Office of PCT Legal Administration
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28 MAR 2007

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SCHIFF HARDIN, LLP
PATENT DEPARTMENT
6600 SEARS TOWER
CHICAGO IL 60606-6473

In re Application of :
KOCH et al. :
Application No.: 10/557,693 :
PCT No.: PCT/DE04/01721 :
Int. Filing Date: 30 July 2004 : DECISION ON
Priority Date: 01 August 2003 :
Attorney Docket No.: PO5,0327 :
For: MULTIPLE COUPLING CLOSURES AND : REQUEST FOR REFUND
MULTIPLE DOCKING DEVICES CONTAINING :
SAID COUPLING CLOSURES

This is a decision on applicants' Petition for Refund of Application Fee in View of Small Entity" filed on 27 February 2006 in the United States Patent and Trademark Office (USPTO).

Applicant filed a request for refund indicating that applicant qualified for small entity status and requested a refund of $450 of the basic national fee ($925), fees paid for independent ($725) and total claims ($200) paid on 22 November 2005.

DISCUSSION

37 CFR 1.28(a) provides a three-month time period for requesting a refund of a portion of a large entity fee based on later establishment of small entity status. The start date of the three-month refund period of 37 CFR 1.28(a) is the date the full fee has been paid. See 37 CFR 1.28(b)(1). Payment by authorization to charge a deposit account is treated for refund purposes the same as payments by other means (e.g., check or credit card authorizations), with each being treated as paid (for refund purposes) on the date of receipt in the Office as defined by 37 CFR 1.6. Thus, the date of receipt of an authorization to charge fees starts the three-month period for refunds under 37 CFR 1.28(a), not the date of debit of the fee to a deposit account. *See* MPEP §509.03.

A review of the application file indicates that small entity status was first requested on 27 February 20007. Therefore, the only fees that are entitled to refund based on small entity status are those fees, which were paid on or after that date or within three months prior to that date. On 27 February 2007, a date within the prior three months, the surcharge for filing the oath or declaration after the thirty month period was paid in the amount of $130. This fee was paid within the prior three months and is entitled to one-half refund. However, all other fees were paid prior to 27 February 2007 and are not eligible for a refund under 37 CFR 1.28(a).

Since the small entity statement, filed on 27 February 2007, is deemed to meet the requirements of 37 CFR 1.27, a refund of $65.00 of the surcharge pursuant to 37 CFR 1.28 (a) and 37 CFR 1.26 is in order and will be credited to applicant's credit card.

CONCLUSION

For the reasons set forth above, applicants' request for refund filed 27 February 2007 in the amount of $65 is **GRANTED** and will be credited to applicant's credit card.

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Fax: 571-272-0459

03/28/2007 SBASHEIR 00000007 10557693
01 FC:2617 65.00 OP

Adjustment date: 03/28/2007 SBASHEIR
02/21/2007 INTEFSW 00001720 10557693
01 FC:1051 -130.00 OP

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Nobuo Fujita	: DECISION ON REQUEST FOR
Patent Number	: 7662496	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/557,699	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/557,707	02/09/2007	Tomoyuki Asano	281153US6PCT	7876

7590 01/31/2008

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

EXAMINER	
TABOR, AMARE F	

ART UNIT	PAPER NUMBER
2139	

NOTIFICATION DATE	DELIVERY MODE
01/31/2008	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☑ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Patent Publication Branch
Office of Data Management

23 JAN 2007

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Douglas H. Goldhush
SQUIRE, SANDERS & DEMPSEY LLP
14TH FLOOR
8000 Towers Crescent Drive
Tyson Corner, VA 22182-2700

In re Application of: Hisashi Katoh et al.
Application No.: 10/557,731
PCT Application No.: PCT/JP04/003408
Int. Filing Date: 15 March 2004
Priority Date Claimed: 21 May 2003
Attorney Docket No.: 59406.00037
For: Walking Assistance Device.

: DECISION ON PETITION
: UNDER 37 CFR 1.182.

This is in response to the petition under 37 CFR 1.182 filed 05 December 2006, requesting correction of the spelling of the last name of the first inventor: from "Kato" to "Katoh".

The appropriate petition fee of $400.00 required under 37 CFR 1.17(f) has been paid. Applicant filed a statement that the error was due to mistransliteration of the investor's name from Japanese to English, and an affidavit in support thereof is also filed. Applicant's explanation for the discrepancy is accepted.

The petition under 37 CFR 1.182 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 15 March 2004 and a date under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) of 23 June 2006.

The application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision.

Taofiq A. Solola, PhD. JD.
PCT Legal Administration
Telephone: 571-272-6095

Bryan Lin for
Leonard Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

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23 MAY 2007

Mark J. Nuell, Ph.D.
Birch, Stewart, Kolasch & Birch
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of	:	
PACHECO, et al.	:	
Application No.: 10/557,737	:	DECISION ON PETITION
PCT No.: PCT/BR04/00073	:	
Int. Filing Date: 21 May 2004	:	UNDER 37 CFR 1.181
Priority Date: 22 May 2003	:	
Atty Docket No.: 4705-0116PUS1	:	
For: TERNARY AND QUATERNARY EUTECTIC MIXTURES	:	

This is a decision on applicant's correspondence filed 27 April 2007 in the United States Patent and Trademark Office (USPTO). The paper is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 21 May 2004, applicant filed international application PCT/BR04/00073, which claimed priority to an earlier application filed 22 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. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 22 November 2005.

On 21 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 Information Disclosure Statement, an Application Data Sheet and a First Preliminary Amendment.

On 21 July 2006, applicant filed an executed combined declaration and power of attorney of the inventors.

On 23 August 2006, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 371 date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements as 21 November 2005 and date of completion of all 35 U.S.C. 371 requirements as 22 November 2005.

On 27 April 2007, applicant filed the present petition claiming that the 371 requirements were satisfied on 21 July 2006 and requesting a new Form PCT/DO/EO/903.

DISCUSSION

A review of the application file finds that applicant is correct that the last of the 35 U.S.C. 371 requirements (the executed combined declaration and power of attorney of the inventors) was filed with the USPTO on 21 July 2006. As such, it is proper to grant applicant's petition at this time.

CONCLUSION

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

The application has an international filing date of 21 May 2004 under 35 U.S.C. 363 and will be given a date of **21 July 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) mailed 23 August 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 a corrected filing receipt indicating the correct 371 date as detailed above.

Derek A. Putonen
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08 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of KIM :
U.S. Application No.: 10/557,738 :
PCT Application No.: PCT/KR03/01011 :
Int. Filing Date: 22 May 2003 : DECISION
Priority Date Claimed: (none) :
Attorney Docket No.: 0630-2561PUS1 :
For: FUEL CELL, ELECTRODE CATALYST :
AND ELECTRODE FOR FUEL CELL :

This is in response to the communication filed 07 April 2006, which is being treated as a petition under 37 CFR 1.182.

BACKGROUND

On 22 May 2003, applicant filed international application PCT/KR03/01011. A copy of the international application was communicated to the USPTO from the International Bureau on 02 December 2004. The thirty-month period for paying the basic national fee in the United States expired on 22 November 2005.

On 21 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 Transmittal Letter (Form PTO-1390).

On 07 April 2006, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The Transmittal Letter filed on 21 November 2005 listed PCT/KR04/01011 as the international application number. The present petition states that it is accompanied by a corrected Transmittal Letter, which lists PCT/KR03/01011 as the international application number.

CONCLUSION

The petition under 37 CFR 1.182 is GRANTED.

The present application is the U.S. national stage entry of international application PCT/KR03/01011.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/557,747	11/21/2005	Toru Nishibayashi	Q91609	2298

23373 7590 05/25/2010

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

EXAMINER	
SZNAIDMAN, MARCOS L	
ART UNIT	**PAPER NUMBER**
1612	

NOTIFICATION DATE	DELIVERY MODE
05/25/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

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MAY 25 2010

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

In re Application of	:
Nishibayashi et al	:Decision on Petition
Serial No.:10/557,747	:
Filed : 21 November 2005	:
Attorney Docket No.:Q91609	:

This letter is in response to the Petition filed on 30 June 2009 under 37 C.F.R. 1.144 to request reconsideration of the restriction requirement mailed 7 March 2008. The petition was inadvertently mis-indexes in eDAN and only recently brought to the deciding official's attention. The resulting delay in acting upon this petition is regretted.

BACKGROUND AND DISCUSSION

The application, file history and petition have been considered carefully.

In response to the restriction requirement mailed 7 March 2008, applicants elected Group I, claims 1, 2, and 4, drawn to a composition containing olanexidine and polyoxyethlyene higher alkyl ethers, with traverse.

The petition filed 30 June 20009 requests rejoinder and the examination of claims 3 and 28, which are described as being drawn to non-elected Group II, a composition containing olanexidine and polyoxyethlyene alkylphenyl ethers. However, a review of the current claim set pending at the time of the petition was filed, does not contain a claim 28. The highest numbered claim filed (Claim 27) depends upon elected claim 1 and is directed to the elected subject matter of Group I, a composition containing olanexidine and polyoxyethlyene higher alkyl ethers. Claim 27 was examined in the Office action mailed 4 March 2009.

On 16 February 2010, applicants filed an amendment in which all claims directed to the non-elected inventions were cancelled. All remaining claims (independent claim 1 and dependent claims 26-27) require that polyethylene higher alkyl ethers of Group I and do not encompass the polyoxyethylene alkylphenyl ethers of non-elected Group II.

MPEP 818.01 states the elected "becomes fixed when the claims in an application have received an action on their merits by the Office."

MPEP 181.02(C) states that where "applicant is claiming two or more inventions (which may be species or various types of related inventions) and as a result of action on the claims, he or she cancels the claims to one or more such inventions, leaving claims to one invention, and such claims are acted upon by the examiner, the claimed invention this acted upon is elected."

Here, because no claims to the non-elected invention remain pending, the arguments set forth in the petition are not persuasive because they are not commensurate in scope with the current claim set. There are no currently pending non-elected claims which could be rejoined.

DECISION

Accordingly, the petition under 37 CFR 1.144 is **DISMISSED.**

Any request for reconsideration under 37 CFR 1.181 must be filed within TWO (2) MONTHS of the mail date of this petition decision.

The application will be forwarded to the Examiner to consider the papers filed 16 February 2010 and for preparation of an Office action consistent with this decision.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 571-273-8300.

Remy Yucel
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/557,747	11/21/2005	Toru Nishibayashi	Q91609	2298

23373 7590 06/17/2010

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

EXAMINER	
SZNAIDMAN, MARCOS L	
ART UNIT	**PAPER NUMBER**
1612	

NOTIFICATION DATE	DELIVERY MODE
06/17/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

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JUN 17 2010

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

In re Application of	:
Nishibayashi et al	:Supplemental Decision on Petition
Serial No.:10/557,747	:
Filed : 21 November 2005	:
Attorney Docket No.:Q91609	:

This letter is in response to the Petition filed on 30 June 2009 under 37 C.F.R. 1.144 to request reconsideration of the restriction requirement mailed 7 March 2008.

Upon receipt of the petition decision mailed 25 May 2010, Applicant called requesting reconsideration of the petition and rejoinder of claim 28, submitted 30 June 2009. Applicants stated that on 30 June 2009, an amendment was submitted which included new claim 28.

Upon review of the file, no electronic copy of a 30 June 2009 claim amendment could be found in the electronic file. In follow up, the Office requested that the scanning support contractors review the papers which were filed on 30 June 2009. Upon doing so, they found the paper copy of the missing claim amendment and have scanned it into the file.

Applicants are correct that claim 28, directed to the non-elected invention, was pending on 30 June 2009 and the file has been completed to include those amendments. However, before the mailing of the petition decision, on 16 February 2010, applicant filed an amendment that cancelled all claims directed to the non-elected invention, including claim 28.

For this reason, the petition under 37 CFR 1.144 remains **DISMISSED** because there are no claims pending which are directed to the non-elected invention. At this moment, all pending claims are under examination and no claims are withdrawn from examination.

Applicant remains under obligation to respond in a timely manner to the final Office action mailed 7 June 2010.

Any request for reconsideration under 37 CFR 1.181 must be filed within TWO (2) MONTHS of the mail date of this petition decision. It is recommended that if applicant wish to have claims rejoined for examination, that these claims be kept pending. Cancelled claims cannot be rejoined.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 571-273-8300.

Remy Yucel
Director, Technology Center 1600

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ALEXANDRIA, VA 22313-1450
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10 JAN 2007

COGNIS CORPORATION
PATENT DEPARTMENT
300 BROOKSIDE AVENUE
AMBLER, PA 19002

In re Application of MOSER et al :
U.S. Application No.: 10/557,748 :
PCT Application No.: PCT/EP2004/004963 :
Int. Filing Date: 10 May 2004 :
Priority Date Claimed: 16 May 2003 : DECISION
Attorney Docket No.: C 2791 PCT/US :
For: COSMETIC AND/OR DERMATOLOGICAL :
PREPARATIONS CONTAINING AN :
EXTRACT FROM THE SEEDS OF PLANTS :
OF THE GENUS ADENANTHERA :

This is in response to applicant's "Petition Under 37 C.F.R. §1.137(b) to Revive Unintentionally Abandoned International Application Designating the U.S." filed 18 November 2005.

BACKGROUND

On 10 May 2004, applicant filed international application PCT/EP2004/004963, which claimed priority of an earlier France application filed 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 on 16 November 2005.

International application PCT/EP2004/004963 became abandoned as to the United States for failure to timely pay the basic national fee.

On 18 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 reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states that "the entire delay in filing the required submission under 35 U.S.C. §371 was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 10 May 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 18 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

8604

I hereby certify that on the date specified below this correspondence is being electronically transmitted to the United States Patent and Trademark Office via its EFS-Web Registered eFiler system.

June 23, 2006
Date

Thomas E. Loop

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:	10/557,755	Confirmation No.:	1626
First Named Inventor:	Gregory Branch		
Filing Date:	April 13, 2005		
Title:	FOAMED PET PACKAGING		
Atty. Docket No.:	110120.403		

1772
M. Miggins

PETITION TO MAKE SPECIAL

This is a petition to have the above-identified application accorded "special" status under 37 CFR 1.102(c). This petition is based on the grounds that the invention will materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life sustaining natural elements, i.e., air, water, and soil. This petition is being accompanied by the following statement under 37 CFR 1.102 explaining how the materiality standard is met.

The present invention is directed to foamed containers made from a novel process. The foamed containers include shaped articles of manufacture such as, for example, foamed coffee cups and food packaging trays. More specifically, the inventive foamed containers are made from a sheet or roll of a thermoplastic material, wherein the thermoplastic material consists essentially of a virgin thermoplastic material admixed with a previously processed thermoplastic material (i.e., recycled plastic), wherein the virgin material and the recycled plastic are of the same chemical composition, and wherein the recycled plastic content is in an amount that ranges from about 5% to about

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
OCT 2 2006

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WEGMAN, HESSLER & VANDERBURG
6055 ROCKSIDE WOODS BOULEVARD
SUITE 200
CLEVELAND, OH 44131

Mail Date: 05/11/2010

Applicant	: David H. Nordmeyer	: DECISION ON REQUEST FOR
Patent Number	: 7658796	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/557,756	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 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 **955** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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THOMAS LOOP
P.O. BOX 21466
SEATTLE WA 98111

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SEP 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Branch, Gregory L.	:	
Application No. 10/557,758	:	ON PETITION
Filed: November 17, 2005	:	
Attorney Docket No. 110120.402	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed June 23, 2006, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section V: Environmental Quality.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i), MPEP § 708.02, Section V: Environmental Quality must be accompanied by statements by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the inventions contribute to the restoration or maintenance of one of the basic life-sustaining natural elements, i.e., air, water, and soil. No fee is required

The instant petition includes a statement from the attorney of record, detailing out the invention contributes to the restoration or maintenance of mankind's air and soil. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Office of Initial Patent Examination for further processing. The matter will be then be referred to the Technology Center Art Unit 1711 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

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THOMAS LOOP
GRAYBEAL JACKSON LLP
400 - 108TH AVENUE NE, SUITE 700
BELLEVUE, WA 98004

Mail Date: 04/21/2010

Applicant	: Gregory L. Branch	: DECISION ON REQUEST FOR
Patent Number	: 7585439	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/557,758	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/17/2005	: 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.

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Paper No. 2

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

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APR 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Owen Scott	:	
Application No. 10/557,765	:	DECISION ON PETITION
Filed: November 15, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 7578-0001WOUS	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 10, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from Inventor Owen Scott stating that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 1722 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

Mail Date: 04/21/2010

Applicant	: William Cowden	: DECISION ON REQUEST FOR
Patent Number	: 7648966	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/557,773	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **719** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/20/2010

Applicant	: Yasushi Nagasawa	: DECISION ON REQUEST FOR
Patent Number	: 7586610	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/557,782	: OF WYETH
Filed	: 11/18/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/557,792	12/20/2006	Jean-Pierre Allegre	200300829-3	6002

7590 04/22/2008

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER	
SING, SIMON P	
ART UNIT	**PAPER NUMBER**
2614	
NOTIFICATION DATE	**DELIVERY MODE**
04/22/2008	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Patent Publication Branch
Office of Data Management

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ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON DC 20004-1206

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MAR 21 2008
OFFICE OF PETITIONS

Applicant: Gerber
Appl. No.: 10/557,796
International Filing Date: May 24, 2004
Title: INORGANIC RESORBABLE BONE SUBSTITUTE MATERIAL
Attorney Docket No.: 20502.002
Pub. No.: 2007/0059379 A1
Pub. Date: March 15, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on April 17, 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

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

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DEC 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Moriaki ABE, et *al.* :
Application No. 10/557,803 : DECISION GRANTING PETITION
Filed: November 23, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **276640US6PCT** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 7, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 6, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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JAMES C. LYDON
100 DAINGERFIELD ROAD
SUITE 100
ALEXANDRIA VA 22314

In re Application of:
Vallittu, Pekka et al
Serial No.: 10/557,822
Filed: Nov. 23, 2005
Docket: TUR-173
Title: MATRIX BAND

DECISION ON PETITION TO WITHDRAW FINALITY OF THE FINAL OFFICE ACTION

This is a decision on the petition filed on Mar. 28, 2008 to withdraw the finality of the Office action of Nov. 28, 2007. The petition is considered filed under 37 CFR §§ 1.144 and 1.181 and no fee is charged.

The petition is dismissed as untimely.

The record shows:

The examiner issued a non-final Office action on Jun. 12, 2007 rejecting original claims 1-15 in the case. In response to the office action, on Sep. 11, 2007 the applicant filed an amendment canceling claims 10-15 and added new method claims 16-19. On Nov. 28, 2007, the examiner issued a final Office action. In the final Office action, the examiner found the newly added claims 16-19 are directed to an independent or distinct invention and held the previously rejected claims 1-9 as a constructively elected invention. The non-elected method claims 16-19 stand withdrawn from consideration. On Mar 28, 2008, the current petition to withdraw the finality of the Office action of Nov. 28, 2007 was filed.

The petitioner's request to withdraw the finality of the Office action mailed on Nov. 28, 2007 was based on the fact that making the Office action final is premature because it contains a new restriction requirement. Petitioner also opines that there is no clear issue that has been developed with respect to the newly added method claims 16-19.

Discussion and Analysis

In the petition, petitioner argues that the newly added method claims 16-19 correspond to original and now cancelled "use" claims 12-15, which were searched and examined in the first Office action. Accordingly, method claims 16-19 are properly part of the originally presented invention, and should not have been withdrawn from examination based on a constructive election. These newly added method claims 16-19 should have been either examined or properly restricted before the Official action was made final.

A review of the record shows that the instant petition was filed more than three months after the mailing date of the final Office action of Nov. 28, 2007. Pursuant to 37 CFR § 1.181(f)[1], the petition is not timely filed since the petition was not filed within two months of the action to which there is a complaint. As the petition was not timely filed, the relief requested will not be granted. Petitioner is entitled to request reconsideration of this decision provided that the request for reconsideration is filed within two months of the date of this decision.

However, as a matter of courtesy, a review of the restriction requirement also has been made. The newly added method claims 16-19 are in fact not included in the original filed national stage application under 37 U.S.C. § 371 prior to the first Office action. The newly added method claims 16-19 are not coextensive to the cancelled original "use" claims 10-15. Therefore, the PCT rules of lack of unity do not apply to the newly added method claims 16-19. It is also noted that petitioner did not present any arguments to rebut why the newly added method claims 16-19 cannot be practiced by another materially different apparatus or the apparatus as claimed in originally presented claims 1-9 cannot be used to practice another and materially different process. (MPEP § 806.05(e). Moreover, the rejections under 35 U.S.C. §§ 102 and 103 evidence that a special technical feature is lacking from any of the claims that may be defined as independent thereby establishing in the International application that there is no unity in the original claims to prohibit either a holding of lack of unity or a restriction requirement. See MPEP § 1850. Therefore, the restriction requirement based on constructive election is found proper in accordance with MPEP § 818.01, 821.03 and 37 CFR § 1.145.

Conclusion

In view of the record, petitioner's request to withdraw the finality of the Office action dated Nov. 28, 2007 is dismissed as untimely.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3732 waiting for applicant's response to the final Office action of Nov. 28, 2007. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

Petition Dismissed as Untimely.

Frederick R. Schmidt, Director
Technology Center 3700

[1] 37 CFR 1.181(f): The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

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11 DEC 2007

Craig Hallacher
Continental Teves
One Continental Drive
Auburn Hills MI 48326

In re Application of	:	
JUNGBECKER, et al.	:	
Application No.: 10/557,867	:	
PCT No.: PCT/EP04/50863	:	DECISION ON PETITION
Int. Filing Date: 19 May 2004	:	
Priority Date: 23 May 2003	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: AP10701	:	
For: SUPERIMPOSED STEERING SYSTEM	:	

The petition to revive under 37 CFR 1.137(b) filed 29 November 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" 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 an executed declaration of the inventors. 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 19 May 2004 under 35 U.S.C. 363 and will be given a date of **29 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 (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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0 3 MAR 2010

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

In re Application of	
EISENBACH-SCHWARTZ et al	SUPPLEMENTAL DECISION
Application No.: 10/557,901	
PCT No.: PCT/IL2004/000441	
Int. Filing Date: 23 May 2004	ON PETITION UNDER
Priority Date: 22 May 2003	
Attorney Docket No.: EIS-SCHWARTZ 29A	
For: DOPAMINE AND AGONISTS AND ...	37 CFR 1.181
REGULATORY T CELLS	

This is a supplemental decision since the decision mailed previously had the wrong application number. 10/577,901 rather than the correct number 10/557,901. This decision is in response to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT," filed on 22 July 2009 which is being treated as a petition under 37 CFR 1.181. Applicants have submitted, inter alia, a copy of the 28 February 2007 PTO stamped itemized postcard receipt. The itemized postcard lists, inter alia, the following item: Missing Parts Response with Declaration and Sequence Listing with Disk.

BACKGROUND

On 22 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 01 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, ... and that a copy of the Sequence Listing in computer readable form has not been submitted as required by 37 CFR 1.821(e)." 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 28 February 2007, applicants filed an executed declaration and a sequence listing in computer readable form.

On 22 May 2009, 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 02/01/2007 within the time period set therein.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 22 May 2009, applicants submitted on 22 July 2009 the instant petition to vacate holding of abandonment. In support of the request, applicants have provided a copy of the returned/stamped receipt card acknowledging a receipt date of 28 February 2007, within the time period of response.

On the 06 August 2009, the USPTO indicated that the Sequence Listing was accepted.

DISCUSSION

Applicants' present petition accompanied by a copy of the following documents, filed purportedly with the USPTO as indicated in the stamped postcard:

(1) Fees 965.00
(2) Missing Parts Response with Decl
(3) Sequence Listing with Disk

The postcard lists the above items and bears a USPTO date of stamp as February 28, 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 and a sequence listing computer readable form were deposited with the U.S. Patent and Trademark Office on 28 February 2007.

Accordingly, the date of receipt for the Declaration and the sequence listing in computer readable form is 28 February 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 22 May 2009 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 **28 February 2007**.

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

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16 MAR 2010

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

In re Application of	
EISENBACH-SCHWARTZ et al	SUPPLEMENTAL DECISION
Application No.: 10/557,901	
PCT No.: PCT/IL2004/000441	
Int. Filing Date: 23 May 2004	ON PETITION UNDER
Priority Date: 22 May 2003	
Attorney Docket No.: EIS-SCHWARTZ 29A	
For: DOPAMINE AND AGONISTS AND ...	37 CFR 1.181
REGULATORY T CELLS	

This decision corrects the correspondence address. This is a supplemental decision since the decision mailed previously had the wrong application number; 10/577,901 rather than the correct number 10/557,901. This decision is in response to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT," filed on 22 July 2009 which is being treated as a petition under 37 CFR 1.181. Applicants have submitted, inter alia, a copy of the 28 February 2007 PTO stamped itemized postcard receipt. The itemized postcard lists, inter alia, the following item: Missing Parts Response with Declaration and Sequence Listing with Disk.

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On 01 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, ... and that a copy of the Sequence Listing in computer readable form has not been submitted as required by 37 CFR 1.821(e)." 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.

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On the 06 August 2009, the USPTO indicated that the Sequence Listing was accepted.

DISCUSSION

Applicants' present petition accompanied by a copy of the following documents, filed purportedly with the USPTO as indicated in the stamped postcard:

(1) Fees 965.00
(2) Missing Parts Response with Decl
(3) Sequence Listing with Disk

The postcard lists the above items and bears a USPTO date of stamp as February 28, 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 and a sequence listing computer readable form were deposited with the U.S. Patent and Trademark Office on 28 February 2007.

Accordingly, the date of receipt for the Declaration and the sequence listing in computer readable form is 28 February 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 22 May 2009 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 **28 February 2007**.

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

16 JAN 2009

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HEINZ GRETHER PC
G2 Technology Law
5810 Trade Center Drive
Suite 300
Austin, TX 78744

In re Application of :
TEFFER *et al* :
U.S. Application No.: 10/557,915 :
PCT No.: PCT/US2004/015714 :
Int. Filing Date: 19 May 2004 :
Priority Date: 19 May 2003 : **DECISION ON**
Docket No.: PRTF001WUS0 : **PETITION UNDER**
For: METHOD FOR INCORPORATING : **37 CFR 1.137(b)**
INDIVIDUAL VEHICLE DATA :
COLLECTION, DETECTION AND :
RECORDING OF TRAFFIC :
VIOLATIONS IN A TRAFFIC SIGNAL :
CONTROLLER :

Applicants' petition to revive under 37 CFR 1.137(b) filed on 10 December 2008 is hereby **GRANTED** as follows:

The proper fees 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 United States Designated/Elected Office for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

2 1 JAN 2009

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Michael Wallace, Jr.
170 Wood Avenue South
Iselin, NJ 08831

In re Application of
TEFFER *et al*
U.S. Application No.: 10/557,915
PCT No.: PCT/US2004/015714
Int. Filing Date: 19 May 2004
Priority Date: 19 May 2003
Docket No.: PRTF001WUS0
For: METHOD FOR INCORPORATING INDIVIDUAL VEHICLE DATA COLLECTION, DETECTION AND RECORDING OF TRAFFIC VIOLATIONS IN A TRAFFIC SIGNAL CONTROLLER

DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' petition[1] to revive under 37 CFR 1.137(b) filed on 10 December 2008 is hereby **GRANTED** as follows:

The proper fees 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 United States Designated/Elected Office for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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[1] It is noted that this decision was originally mailed on 16 January 2009 to the address of record, *i.e.*, HEINZ GRETHER PC, G2 Technology Law, 5810 Trade Center Drive, Suite 300 Austin, TX 78744. That decision was returned by the USPS as undeliverable. This mailing to the address listed on the petition is a courtesy only. If applicants request that further correspondence be sent to this address, a proper change of correspondence address must be provided.

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SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM, NY 12110

Mail Date: 04/21/2010

Applicant	: Patrick Benard	: DECISION ON REQUEST FOR
Patent Number	: 7590138	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/557,917	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **796** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/20/2010

Applicant	: Masao Mori	: DECISION ON REQUEST FOR
Patent Number	: 7662852	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/557,922	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **988** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TAROLLI, SUNDHELM, COVELL & TUMMINO, LLP
1300 EAST NINTH STREET
SUITE 1700
CLEVELAND, OH 44114

Mail Date: 04/21/2010

Applicant	: Donnacha Lowney	: DECISION ON REQUEST FOR
Patent Number	: 7586611	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/557,950	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **335** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED

JUL 12 2010

OFFICE OF PETITIONS

In re Patent No. 7,648,975	: DECISION ON REQUEST
EDDY JEAN FREYNE et al.	: FOR
Issue Date: January 19, 2010	: RECONSIDERATION OF
Application No. 10/558,007	: PATENT TERM ADJUSTMENT
Filed: November 22, 2005	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
PRD-2071USPCT	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 18, 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 five hundred eighty-four (584) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred seventy-eight (578) 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.

With regards to the "B" delay period, this application was filed under 35 USC 371(b). Accordingly, the over three year period is based on the date the national stage commenced under 35 USC 371(b). This application commenced the national stage on November 28, 2005. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Sunday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the over three year period begins on November 29, 2008, the day after the date three years after the commencement date, and ends on July 19, 2010, the date of patent issuance, and is 417 days, not 423 days as asserted by patentees.

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

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The 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-eight (578) days**.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,648,975 B2

DATED : January 19, 2010 **DRAFT**

INVENTOR(S) : EDDY JEAN FREYNE 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 300 days.

Delete the phrase "by 300 days" and insert – by 578 days--

United States Patent and Trademark Office

12 MAY 2008

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www.uspto.gov

CONNOLLY BOVE LODGE & HUTZ LLP
1990 M STREET, N.W.
SUITE 800
WASHINGTON DC 20036-3425

In re Application of	:	
Colles	:	
Application No.: 10/558,026	:	
PCT No.: PCT/GB2004/002187	:	
Int. Filing Date: 21 May 2004	:	DECISION
Priority Date: 23 May 2003	:	
Attorney Docket No.: 21046-00054-US1	:	
For: Photo-Activated Disinfection	:	

The petition to revive under 37 CFR 1.137(b) filed on 28 November 2007 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has filed the required reply in the form of the declaration and surcharge, and has paid the petition fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the Office of Patent Application Processing for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **28 November 2007**.

/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

UNITED STATES DEPARTMENT OF COMMERCE
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Li Tan	: DECISION ON REQUEST FOR
Patent Number	: 7618510	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/558,032	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **374** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Bryan Cave LLP
1290 Avenue of the Americas
New York, NY 10104

Mail Date: 04/21/2010

Applicant	: Daniel Raederstorff	: DECISION ON REQUEST FOR
Patent Number	: 7582674	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/558,042	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **168** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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26 JUL 2006

Heidi A. Dare
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, Illinois 60610

In re Application of	:	
IVERSEN	:	DECISION ON PETITION
Serial No.: 10/558,047	:	
PCT No.: PCT/DK04/00356	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 19 May 2004	:	
Priority Date: 22 May 2003	:	
Atty Docket No.: 12706-26	:	
For: DISPOSABLE VALVE UNIT FOR REGULATING A FLOW OF URINE	:	

This decision is in response to the applicant's "Petition Under 37 C.F.R. §1.47(b) For Non-Signing Inventor" filed 16 June 2006 to accept the application without the signature of inventor Jorgen Iversen.

BACKGROUND

On 19 May 2004, applicant filed international application PCT/DK04/00356 which claimed priority to a previous application filed 22 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. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 22 November 2005.

On 21 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 Information Disclosure Statement and a First Preliminary Amendment. An executed oath or declaration of the inventor as required by 35 U.S.C. 371 (c)(4) was not filed.

On 16 June 2006, applicant filed the present petition.

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. A review of applicant's petition and accompanying exhibits finds that all items have been satisfied.

Regarding item (1), applicant has provided payment of the $200.00 petition fee.

As to item (2), applicant has provided through the executed declaration of Ms. Kim Andersen sufficient firsthand evidence to show that the non-signing inventor, Mr. Iversen has knowledge of the application to which he is being asked to sign the declaration and has refused to do so.

Regarding item (3), applicant has provided the last known address of the non-signing inventor.

As to item (4), applicant has provided a declaration executed by Ms. Kim Andersen, on behalf of the corporate entity, Unomedical A/S and the non-signing inventor, Jorgen Iversen.

Regarding item (5), applicant has provided a copy of an executed assignment document from Mr. Iversen to Unomedical A/S, as well as, a statement of under 37 CFR 3.73(b).

As to item (6), counsel has supplied the requisite statement that the present action is necessary to preserve the rights of the parties or to prevent irreparable damages.

As such, it is proper to grant applicant's petition under 37 CFR 1.47(b) at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.47(b) is **GRANTED**.

The application has an international filing date of 19 May 2004 under 35 U.S.C. 363, and will be given a date of **16 June 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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APR 26 2010

OFFICE OF PETITIONS

HODES, PESSIN & KATZ, PA
901 DULANEY VALLEY ROAD
SUITE 400
TOWSON, MD 21204

In re Application of :
Augusto Santicchi :
Application No. 10/558,050 : DECISION ON PETITION
Filed: November 22, 2005 :
Attorney Docket No. 05303-PCT-PA :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 9, 2010, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 19, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed October 19, 2009. Accordingly, the date of abandonment of this application is January 20, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; 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 undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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0 9 APR 2007

26646
KENYON & KENYON LLP
One Broadway
New York, NY 10004

In re Application of
PELZ *et al*
Application No.: 10/558,075
PCT No.: PCT/EP04/50691
Int. Filing Date: 04 May 2004
Priority Date: 23 May 2003
Attorney Docket No.: 10191/4487
For: OPERATING DEVICE

DECISION

This decision is in response to the response filed 03 January 2007 which is treated as a petition under 37 CFR 1.182 to change the name of an inventor.

BACKGROUND

On 05 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(a) and (b) and a surcharge fee must be provided. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 01 September 2006, applicants filed an executed declaration and surcharge fee. The name of an inventor was listed as Ralf FLEMME on the declaration. However, the surname was listed as Ralf ROSEBROCK on the international publication.

On 06 October 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed stating that the declaration was not in compliance with 37 CFR 1.497(a) and (b).

On 03 January 2007, applicants filed the subject response which was accompanied by, *inter alia*, a four-month extension and fee, a certified copy of a German court order and authorization to charge any required fee to Deposit Account No. 11-0600.

DISCUSSION

Section 605.04(c), *Inventor Changes Name*, of the Manual of Patent Examining

Procedures (MPEP) states, in part:

> The petition must include an appropriate petition fee and an affidavit signed by the inventor setting forth both names and the procedure whereby the change of name was effected, **or** a certified copy of the court order.

In the response filed 03 January 2007, applicants' response is treated as a petition to change the name of the inventor. The $400.00 petition fee has been charged to Deposit Account No. 11-0600 as authorized. Applicants submitted a certified copy of the court order as required.

This evidence would have been acceptable for a grantable petition. However, the court order submitted to the Office is in German without an English translation. The Office does not accept foreign language documents as evidence without an accompanying English translation.

CONCLUSION

For the reason discussed above, applicants' petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

The declaration filed 01 September 2006 is still not in compliance with 37 CFR 1.497(a) and (b).

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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21 JUN 2007

26646
KENYON & KENYON LLP
One Broadway
New York, NY 10004

In re Application of :
PELZ *et al* :
Application No.: 10/558,075 :
PCT No.: PCT/EP04/50691 :
Int. Filing Date: 04 May 2004 : **DECISION**
Priority Date: 23 May 2003 :
Attorney Docket No.: 10191/4487 :
For: OPERATING DEVICE :

This decision is in response to the "Petition Under 37 C.F.R. 1.182 & Response to Decision" filed 12 June 2007.

BACKGROUND

On 05 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(a) and (b) and a surcharge fee must be provided. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 01 September 2006, applicants filed an executed declaration and surcharge fee. The name of an inventor was listed as Ralf FLEMME on the declaration. However, the surname was listed as Ralf ROSEBROCK on the international publication.

On 06 October 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed stating that the declaration was not in compliance with 37 CFR 1.497(a) and (b).

On 03 January 2007, applicants filed the subject response which was accompanied by, *inter alia*, a four-month extension and fee, a certified copy of a German court order and authorization to charge any required fee to Deposit Account No. 11-0600.

On 09 April 2007, a decision dismissing applicants' petition to change the name of an inventor was mailed. Applicants were given two months to respond.

On 12 June 2007, applicants filed a response which was accompanied by, *inter*

alia, a one-month extension of time and an English translation of a German court order.

On 27 April 2007, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt indicating that the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements date and completion of all 35 U.S.C. 371 requirements was 03 January 2007.

DISCUSSION

As previously noted, section 605.04(c), *Inventor Changes Name*, of the Manual of Patent Examining Procedures (MPEP) states, in part:

> The petition must include an appropriate petition fee and an affidavit signed by the inventor setting forth both names and the procedure whereby the change of name was effected, **or** a certified copy of the court order.

In the initial petition filed 03 January 2007, applicants' submitted a certified copy of the German court order as proof of the change in an inventor's name along with the required petition fee. However, the German court order submitted to the Office was not accompanied by an English translation. This is not acceptable.

In the renewed petition, applicants have submitted an English translation of the German court order as required. The court order shows the change in name of the inventor from Ralf ROSEBROCK to Ralf FLEMME.

This is sufficient for a grantable petition.

CONCLUSION

For the reason discussed above, applicants' petition under 37 CFR 1.182 is hereby **GRANTED**.

The declaration filed 01 September 2006 is now in compliance with 37 CFR 1.497(a) and (b).

The Form PCT/DO/EO/903 and filing receipt mailed 27 April 2007 erroneously noted that the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and completion of all 35 U.S.C. 371 requirements was 03 January 2007. This date is 01 September 2006.

Accordingly, the Form PCT/DO/EO/903 and filing receipt mailed 27 April 2007 are both **VACATED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 04 May 2004, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 01 September 2006.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing and mailing of a new Form PCT/DO/EO/903 and filing receipt.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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SWANSON & BRATSCHUN, L.L.C.
8210 SOUTHPARK TERRACE
LITTLETON CO 80120

MAILED

MAR 18 2010

OFFICE OF PETITIONS

In re Application of :
Charles E. Zeilig :
Application No. 10/558,079 : DECISION ON PETITION
Filed: November 22, 2005 :
Attorney Docket No. 0146.01/PCT-US :

This is a decision on the petition, filed May 27, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the nonfinal rejection mailed June 2, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 8, 2008.

Petitioner states that a timely reply was transmitted via certificate of EFS-WEB transmission on December 2, 2008. Additionally, Office records indicate receipt of the above reply in the form of an amendment on December 3, 2008 (Certificate of Transmission dated December 2, 2008). An extension of time and an affidavit was received on December 2, 2008.

Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

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

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

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

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the nonfinal rejection mailed June 2, 2008, is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 1614 for appropriate action in the normal course of business on the reply received December 2, 2008 and on December 3, 2008 (Certificate of Transmission dated December 2, 2008).

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/558,110	11/22/2005	Eric Champagne	480102.411USPC

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

DATE MAILED: April 9, 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 April 4, 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) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

19 JAN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Mark B. Wilson
Fulbright & Jaworski, L.L.P.
600 Congress Avenue, Suite 2400
Austin, TX 78701

In re Application of	:	
BINDER	:	
Application No.: 10/558,117	:	
PCT No.: PCT/AT04/00185	:	DECISION ON PAPERS
Int. Filing Date: 27 May 2004	:	
Priority Date: 27 May 2003	:	UNDER 37 CFR 1.42
Attorney Docket No.: SONN:082US	:	
For: USE OF OXICAM COMPOUNDS	:	

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 06 December 2006 is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 27 May 2004, applicant filed international application PCT/AT04/00185, which claimed priority to an earlier application filed 27 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 thirty-month period for paying the basic national fee in the United States expired at midnight on 27 November 2005.

On 23 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); a First Preliminary amendment, an application data sheet and an English translation of the international application.

On 02 October 2006, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required.. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 06 December 2006, applicant filed the response including an executed combined declaration and power of attorney accompanied by a petition for a one-month extension of time and payment of the appropriate petition fee. With the filing of the petition for a one-month extension of time and payment of the petition fee, the present response is considered timely filed.

DISCUSSION

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

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

The declaration submitted on 06 December 2006 was executed by Ms. Eva Binder as sole heir of the estate of deceased inventor, Dieter Binder. However, the filed declaration does not satisfy the requirements under 37 CFR 1.497(b). Specifically, the oath or declaration must provide the citizenship, residence, and mailing address of both the deceased inventor and the signing heirs. The present declaration provides only one set of information for the signature block where Ms. Binder has executed the declaration. Since applicant has filed an application data sheet, the declaration must at a minimum provide the citizenship of the inventor and the citizenship, residence, and mailing address for the heir. In addition, applicant is required to provide a statement that a legal representative has not been appointed nor is statutorily required to be appointed.

CONCLUSION

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

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

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

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

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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0 5 MAR 2007

Mark B. Wilson
Fulbright & Jaworski, L.L.P.
600 Congress Avenue, Suite 2400
Austin, TX 78701

In re Application of :
BINDER :
Application No.: 10/558,117 :
PCT No.: PCT/AT04/00185 : DECISION ON PAPERS
Int. Filing Date: 27 May 2004 :
Priority Date: 27 May 2003 : UNDER 37 CFR 1.42
Attorney Docket No.: SONN:082US :
For: USE OF OXICAM COMPOUNDS :

This decision is in response to applicant's renewed petition under 37 CFR 1.42 filed 02 March 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 19 January 2007, applicant was mailed a decision dismissing applicant's request for status under 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

02 March 2007, applicant filed the present renewed petition.

DISCUSSION

As detailed in the petition mailed 19 January 2007, 37 CFR 1.42 When the Inventor is Dead, states, in part:

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

The declaration submitted on 06 December 2006 was executed by Ms. Eva Binder as sole heir of the estate of deceased inventor, Dieter Binder. However, the filed declaration did not satisfy the requirements under 37 CFR 1.497(b). Specifically, the declaration provided only one set of information for the signature block where Ms. Binder executed the declaration. Applicant has presently filed an executed declaration signed by the sole heir which provides the above information for both the deceased inventor and his sole and details their respective roles in the application. Thus, it is appropriate to grant applicant's renewed petition at this time.

CONCLUSION

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

This application will be given an international application filing date of 27 May 2004 and a date of **02 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date :July 22, 2009

Patent No. :7542873
Inventor(s) :A. Vince et al.
Issued :June 2, 2009
Title :MTHOD AND APPARATUS FOR DETERMINING PARTICLE PARAMETER
:AND PROCESSOR PERFORMANCE IN A COAL AND MINERAL PROCESSING
:SYSTEM

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and

C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions
EFS web	uspto.gov/ebc/index.html (must be registered as an e-filer to submit responses) Technical Support 1-866-217-9197

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

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

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

/arg

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P.O. Box 1450
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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

MAILED

FEB 0 2 2010

OFFICE OF PETITIONS

In re Patent No. 7,542,873 :
Issue Date: June 2, 2009 :
Application No. 10/558,126 : ON PETITION
Filed: November 7, 2006 :
Attorney Docket No. 12905/4 :

This is a decision on the petition filed August 20, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-6692. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Christopher Bottorff
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/16/07 Paper No.: ____

TO SPE OF : ART UNIT 2855

SUBJECT : Request for Certificate of Correction on Patent No.: 7263890

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

Please complete this form and return with file, within 7 days to:
Palm location 7580, Certificates of Correction Branch – South Tower – 9A22
If response is for an IFW, return to employee (named below) via PUBSCofC Team in MADRAS.
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

EDWARD LEFKOWITZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2855
Art Unit

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

COPY MAILED

AUG 12 2008

In re Application of	:	
Atul Katoch et al.	:	
Application No. 10/558,145	:	DECISION ON PETITION
Filed: November 21, 2005	:	
Attorney Docket No. NL03 0591 US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 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, February 21, 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 May 22, 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.

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

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

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

This application is being referred to Technology Center AU 2819 for appropriate action by the Examiner in the normal course of business on the reply received.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Robert J. Crawford
CRAWFORD MANU PLLC
1270 Northland Drive, Suite 390
St. Paul, MN 55120

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YOUNG BASILE
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY MI 48084

MAILED

JUL 15 2009

OFFICE OF PETITIONS

In re Application of :
Mortazawi et al. :
Application No. 10/558,150 : ON PETITION
Filed: November 21, 2005 :
Attorney Docket No. RUN-112-B :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 8, 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 November 21, 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). A three month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is May 22, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2817for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment previously submitted in accordance with 37 CFR 1.114.

Charlema Grant
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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12 DEC 2006

SHOEMAKER AND MATTARE, LTD
10 POST OFFICE ROAD - SUITE 110
SILVER SPRING MD 20910

In re Application of
Theo STAHELI
Application No.: 10/558,153
PCT No.: PCT/CH04/00311
Int. Filing Date: 21 May 2004
Priority Date: 23 May 2003
Attorney Docket No.:5763
For: METHOD FOR PRODUCING COMPRESSED, PLASTIC-COATED ROVINGS

DECISION ON DECLARATION

This is a decision on applicants' "Response to Notification of Missing Requirements", filed on 12 September 2006 in the United States Patent and Trademark Office (USPTO), requesting acceptance of the declaration in the above reference application.

BACKGROUND

On 23 November 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 17 July 2006, a Notification of Missing Requirements was mailed to applicant indicating that the oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required. The Notification set a two month time limit within which to respond. Extensions of time were available under 37 CFR 1.136(a).

On 12 September 2006, applicant filed a declaration, identifying the international application and listed Christian Jentgens, Kurt Lehmann, Donat Frei and Theo Staheli as inventors. Theo Staheli was listed as the sole inventor in the published international application. Applicant did not provide Form PCT/IB/306 adding Christian Jentgens, Kurt Lehmann, Donat Frei as co-inventors.

DISCUSSION

A review of international application PCT/CH04/00311 reveals that Christian Jentgens, Kurt Lehmann, and Donat Frei were not named as inventors in the published international application.

The declaration is unacceptable because (1) it was not executed in accord with 37 CFR 1.66 or 1.68 and (2) inventors Christian Jentgens, Kurt Lehmann, Donat Frei were not listed on the published application. Applicant has not indicated that a Request for the Recording of A Change to add Christian Jentgens, Kurt Lehmann and Donat Frei as a co-inventors under PCT

Rule 92*bis* in PCT/CH04/00311 was filed with the RO/CH and granted by the International Bureau prior to the expiration of the 30 month period.

The declaration submitted on 12 September 2006 erroneously identifies Christian Jentgens, Kurt Lehmann and Donat Frei as co-inventors and thus is not in compliance with 37 CFR 1.497(a) and (b). If Christian Jentgens, Kurt Lehmann and Donat Frei were not accepted under PCT Rule 92*bis* as co-inventors, it is improper to accept the declaration identifying them as co-inventors.

Applicant is advised to provide information regarding how the inventors were added to the international application, that is, Form PCT/IB/306. In the alternative, applicant may wish to consider filing a petition under 37 CFR 1.497(d) to add Christian Jentgens, Kurt Lehmann and Donat Frei as inventors in the U.S. national stage application.

CONCLUSION

The declaration executed by Christian Jentgens, Kurt Lehmann and Donat Frei as a joint inventors in the above referenced application is unacceptable and not in compliance with 37 CFR 1.497(a) and (b). A new declaration, in compliance with 37 CFR 1.497(a) and (b), and executed by the inventors as listed in the published international application, is required.

Applicant is advised that he must provide a complete response within the time limit of ONE month from the mail date of this decision. No extension of this time limit may be granted under 37 CFR 1.136 but the period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

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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0 6 APR 2007

SHOEMAKER AND MATTARE, LTD
10 POST OFFICE ROAD - SUITE 110
SILVER SPRING MD 20910

In re Application of
Theo STAHELI
Application No.: 10/558,153
PCT No.: PCT/CH04/00311
Int. Filing Date: 21 May 2004
Priority Date: 23 May 2003
Attorney Docket No.:5763
For: METHOD FOR PRODUCING COMPRESSED, PLASTIC-COATED ROVINGS

DECISION ON

DECLARATION

This is a decision on applicants' "Petition under 37 CFR 1.497 to Correct Inventorship", filed on 12 January 2007 in the United States Patent and Trademark Office (USPTO), requesting acceptance of the declaration in the above reference application.

BACKGROUND

On 23 November 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 17 July 2006, a Notification of Missing Requirements was mailed to applicant indicating that the oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required. The Notification set a two month time limit within which to respond. Extensions of time were available under 37 CFR 1.136(a).

On 12 September 2006, applicant filed a declaration, identifying the international application and listing Christian Jentgens, Kurt Lehmann, Donat Frei and Theo Staheli as co-inventors. Theo Staheli was listed as the sole inventor in the published international application. Applicant did not provide Form PCT/IB/306 adding Christian Jentgens, Kurt Lehmann, Donat Frei as co-inventors.

On 12 December 2007, a decision was mailed dismissing the petition, indicating that the declaration was unacceptable because it was not executed in accord with 37 CFR 1.66 or 1.68 and that Christian Jentgens, Kurt Lehmann, Donat Frei were not listed as inventors on the published application.

On 12 January 2007, applicant filed the instant petition under 37 CFR 1.497(d).

DISCUSSION

A review of international application PCT/CH04/00311 reveals that Christian Jentgens, Kurt Lehmann, and Donat Frei were not named as inventors in the published international

application.

Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee(s) (See 37 CFR 3.73(b)).[1]

Applicant satisfied Items (1), (2) and (3) above. Accordingly, applicant has met all of the requirements of 37 CFR 1.497(d) to add Christian Jentgens, Kurt Lehmann, Donat Frei as co-inventors in the above-identified international application.

The declaration filed on 12 January 2006 meets the requirements of 37 CFR 1.497 (a) and (b) and is acceptable as filed.

CONCLUSION

The declaration executed by Christian Jentgens, Kurt Lehmann and Donat Frei as a joint inventors in the above referenced application is acceptable and in compliance with 37 CFR 1.497(a) and (b).

For the reasons discussed above, the submission under 37 CFR 1.497(d) to add Christian Jentgens, Kurt Lehmann, Donat Frei as inventors is hereby **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 12 January 2007.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

[1] The submission establishing ownership by the assignee must be signed by a party who is authorized to act on behalf of the assignee.

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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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Gerhard Finger	: DECISION ON REQUEST FOR
Patent Number	: 7579039	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/558,161	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **573** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 05/17/2010

Applicant : Gerhard Finger
Patent Number : 7579039
Issue Date : 08/25/2009
Application No: 10/558,161
Filed : 05/30/2006

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **601** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

United States Patent and Trademark Office

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Alexandria, VA 22313-1450
www.uspto.gov

John K. Buolamwini
1809 Oak Springs Drive
Cordova TN 38016

01 AUG 2006

In re Application of	:	
Buolamwini	:	
Application No.: 10/558,176	:	DECISION
PCT No.: PCT/US03/41686	:	
Int. Filing Date: 31 December 2003	:	ON
Earliest Priority Date: 31 December 2002	:	
Attorney Docket No.: 12869N/040086	:	PETITION
For: Novel Nucleoside Transport Inhibitors	:	

The petition to revive under 37 CFR 1.137(b) filed 22 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 small entity basic national fee, and has paid the small entity 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.

Although the Transmittal Letter filed on 22 November 2005 itemizes an oath or declaration of the inventors, no executed oath or declaration is currently present in the application file. However, the surcharge under 37 CFR 1.492(h) has been received.

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an executed oath or declaration compliant with 37 CFR 1.497(a) and (b).

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

United States Patent and Trademark Office

01 OCT 2007

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P.O. Box 1450
Alexandria, VA 22313-1450
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John K. Buolamwini
1809 Oak Springs Drive
Cordova TN 38016

In re Application of	:	
Buolamwini	:	
Application No.: 10/558,176	:	DECISION
PCT No.: PCT/US03/41686	:	
Int. Filing Date: 31 December 2003	:	ON
Earliest Priority Date: 31 December 2002	:	
Attorney Docket No.: 12869N/040086	:	PETITION
For: Novel Nucleoside Transport Inhibitors	:	

This is in response to the correspondence filed on 06 August 2007.

BACKGROUND

On 01 December 2006, a Notification of Missing Requirements 9Form PCT/DO/EO/905) was mailed to applicant, requiring the filing of $700.00 in additional claims fees, an oath or declaration compliant with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h). The period for response was two (2) months from the mailing date of the Notification of Missing Requirements, extendable under 37 CFR 1.136(a).

On 29 June 2007, applicant filed a declaration and $965.00 in fees. A five-month extension of time would have been required for this submission to have been considered timely.

On 13 September 2007, 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 "08/06/2007."

DISCUSSION

The response filed on 29 June 2007 required a petition (and fee) under 37 CFR 1.136(a) for five-month extension of time in order to be considered timely. No such petition and fee were provided. Therefore, this application stands **ABANDONED** with respect to the national stage in the United States. The mailing of the Notice of Acceptance on 13 September 2007 was improper in view of the abandoned status of the application, so it is hereby **VACATED**.

Applicant's letter filed on 06 August 2007 states (in part) that

> Your correspondence dated 12/01/2006 was not received initially. Upon my own inquiry at the Patent Office on April 27, 2007, I was informed of that document by Mr. Jim [Lisehora]. I told him I did not receive the mailing...
>
> With regard to not seeing the December 12, 2006 document, several things could have happened. Normally our mail is picked up by my wife, my son, my daughter or myself. We have a container (basket where we put in the recent mail and after checking each mail is directed to the right family member or business folders. When I am at home, that is if I have not traveled I make sure all mail is properly checked and I emphasize to family members to be diligent with the mail. We constantly discard a lot of junk mail that comes. The possible reasons, if the mail did arrive at our address, could be that it may have been inadvertently misplaced by a family member.

In a separate letter, also filed on 06 August 2007, applicant states (in part) that

> In view of the delay in receiving the above notification, which was mailed the second time to me by Mr. [Lisehora], I believe I am responding within the required time and should not be liable to any late fees.

Applicant does not clearly specify what sort of relief is being sought, but appears to suggest that the Notification of Missing Requirements mailed on 01 December 2006 may not have been received, and may be suggesting that the period for response be re-started because of that non-receipt. If that is the case, applicant's attention is drawn to the following policy.

> As explained in MPEP 711.03(c), and following *Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971)*, an adequate showing of non-receipt of papers mailed to applicant by the Office must include (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in petitioner's statement).

Should applicant wish to seek relief on the basis that the Notification of Missing Requirements was not received, a showing consistent with this policy would be appropriate.

DECISION

The application is **ABANDONED** for failure to timely reply to the Notification of Missing Requirements mailed on 01 December 2006.

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

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

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

07 JAN 2008

United States Patent and Trademark Office

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

John K. Buolamwini
1809 Oak Springs Drive
Cordova TN 38016

In re Application of	:	
Buolamwini	:	
Application No.: 10/558,176	:	DECISION
PCT No.: PCT/US03/41686	:	
Int. Filing Date: 31 December 2003	:	ON
Earliest Priority Date: 31 December 2002	:	
Attorney Docket No.: 12869N/040086	:	PETITION
For: Novel Nucleoside Transport Inhibitors	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 09 October 2007.

DISCUSSION

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

Regarding requirement (1), applicant filed an acceptable declaration on 06 August 2007.

Regarding requirement (2), petitioner paid $750.00 toward the required $770.00 petition fee. Therefore, the $20.00 balance is required in order to satisfy requirement (2).

Regarding requirement (3), the petition includes an acceptable statement of unintentional delay.

Regarding requirement (4), no terminal disclaimer is required.

DECISION

The petition is **DISMISSED**, without prejudice.

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

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

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
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United States Patent and Trademark Office

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

31 MAR 2008

John K. Buolamwini
1809 Oak Springs Drive
Cordova TN 38016

In re Application of	:	
Buolamwini	:	
Application No.: 10/558,176	:	DECISION
PCT No.: PCT/US03/41686	:	
Int. Filing Date: 31 December 2003	:	ON
Earliest Priority Date: 31 December 2002	:	
Attorney Docket No.: 12869N/040086	:	PETITION
For: Novel Nucleoside Transport Inhibitors	:	

This is in response to the renewed petition under 37 CFR 1.137(b) filed on 24 January 2008.

DISCUSSION

In a Decision mailed on 07 January 2008, the petition under 37 CFR 1.137(b) filed on 09 October 2007 was dismissed, without prejudice, because petitioner had underpaid the petition fee by $20.00.

The instant renewed petition is accompanied by the $20.00 shortfall, thereby completing the requisite $770.00 petition fee. As such, all of the requirements of 37 CFR 1.137(b) now have been satisfied.

DECISION

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

This application is being forwarded to the Office of Patent Application Processing for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **06 August 2007**.

/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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20 MAR 2008

Todd D. Mattingly
Bracewell & Giuliani, LLP
P.O. Box 61389
Houston, TX 77208-1389

In re Application of :
TIBBITTS : DECISION ON PETITION
Application No.: 10/558,181 :
PCT No.: PCT/US04/16987 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 27 May 2004 :
Priority Date: 27 May 2003 :
Atty. Docket No.: 37163.45 :
For: METHOD, SYSTEM AND APPARATUS OF CUTTING EARTHEN FORMATIONS AND THE LIKE :

The petition to revive under 37 CFR 1.137(b) filed 22 January 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 a compliant declaration executed by the inventor. 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 27 May 2004 under 35 U.S.C. 363 and will be given a date of **22 January 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.

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

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FERENCE & ASSOCIATES LLC
409 BROAD STREET
PITTSBURGH PA 15143

MAILED

JUL 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Achillopoulos, Evangelos	:	DECISION ON PETITION
Application No. 10/558,210	:	TO WITHDRAW
Filed: December 5, 2006	:	FROM RECORD
Attorney Docket No. 720.001	:	

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 5, 2010.

The request is **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) was appointed by a specific designation, then the Request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request.

In the instant application, the practitioners were appointed via Customer Number. Therefore, the request to withdraw must reflect the appropriate Customer Number used in the original power of attorney.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Nixon Peabody LLP
200 Page Mill Road
Suite 200
Palo Alto, CA 94306

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of

Loufei Lin

Application No. 10/558,212

Filed: November 26, 2005

Attorney Docket No. 461024.000029

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 3, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned on November 26, 2008, for failure to reply in a timely manner to the non-final Office action, mailed August 25, 2008, which set a shortened statutory period for reply of three (3) months from its mailing date. A Notice of Abandonment was mailed March 6, 2009.

The amendment filed July 3, 2009, is noted.

The application is being forwarded to Technology Center 1700, GAU 1797 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

19 JUL 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

In re Application of CHANDIRAN et al. Application No.: 10/558,223 PCT No.: PCT/IN03/00246 Int. Filing: 21 July 2003 Priority Date: 19 May 2002 Attorney Docket No.: E3566-00004 For: PROCESS FOR THE PREPARATION OF GABAPENTIN	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 23 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 a grantable petition pursuant to 37 CFR 1.137(b)(3) is unintentional" meets the requirements of 37 CFR 1.137(b)(3).

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

The declaration filed with the Request and submitted with the national stage papers is incomplete as it does not state that the inventors are joint inventors of the subject matter which is claimed and for which a patent is sought. See PCT Administrative Instruction 214(a) and 37 CFR 1.497(a)(4).

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

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

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

15 NOV 2007

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FISH & RICHARDSON P.C.
P.O BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of BONNERT et al :
U.S. Application No.: 10/558,228 :
PCT Application No.: PCT/SE2004/000808 :
Int. Filing Date: 25 May 2004 : COMMUNICATION
Priority Date Claimed: 27 May 2003 :
Attorney Docket No.: 06275-486US1 101094-1P US :
For: NOVEL SUBSTITUTED 3-SULFUR :
INDOLES :

This is in response to applicant's "Petition Under 37 CFR 1.182" filed 26 October 2007.

BACKGROUND

On 25 May 2004, applicant filed international application PCT/SE2004/000808, which claimed priority of an earlier Sweden application filed 27 May 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 09 December 2004. The thirty-month period for paying the basic national fee in the United States expired on 27 November 2005.

On 22 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 an executed declaration.

On 31 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 the surname of the second inventor listed on the declaration does not match that shown in the published international application.

On 02 April 2007, applicant filed a response.

On 26 September 2007, this Office mailed a communication which indicated that a petition under 37 CFR 1.182 must be filed.

On 26 October 2007, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

MPEP 605.04(c) states in relevant part,

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. . . . The petition must include an appropriate petition fee and 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.

Additionally, MPEP 1893.01(e) states in relevant part,

> Where there has been no change of inventorship but 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.

The present petition states that the second inventor's surname has changed due to marriage. The requisite $400.00 petition fee will be charged to Deposit Account No. 06-1050. However, the petition fails to include a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected or a copy of the court order. The listing of both names in the declaration is not a statement within the meaning of MPEP 605.04(c).

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). No additional petition fee is required.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

11/15/2007 SBASHEIR 00000001 061050 10558228
Sale Ref: 00000001 DA#: 061050 10558228
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17 JAN 2008

FISH & RICHARDSON P.C.
P.O BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of BONNERT et al :
U.S. Application No.: 10/558,228 :
PCT Application No.: PCT/SE2004/000808 :
Int. Filing Date: 25 May 2004 : DECISION
Priority Date Claimed: 27 May 2003 :
Attorney Docket No.: 06275-486US1 101094-1P US :
For: NOVEL SUBSTITUTED 3-SULFUR :
INDOLES :

This is in response to applicant's "Petition Under 37 CFR 1.182" filed 08 January 2008.

BACKGROUND

On 25 May 2004, applicant filed international application PCT/SE2004/000808, which claimed priority of an earlier Sweden application filed 27 May 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 09 December 2004. The thirty-month period for paying the basic national fee in the United States expired on 27 November 2005.

On 22 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 an executed declaration.

On 31 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 the surname of the second inventor listed on the declaration does not match that shown in the published international application.

On 02 April 2007, applicant filed a response.

On 26 September 2007, this Office mailed a communication which indicated that a petition under 37 CFR 1.182 must be filed.

On 26 October 2007, applicant filed a petition under 37 CFR 1.182.

On 15 November 2007, this Office mailed a decision dismissing the 26 October 2007 petition.

On 08 January 2008, applicant filed the present renewed petition under 37 CFR 1.182.

DISCUSSION

The surname of the second inventor is listed on the declaration as "Mohammed" and is listed on the published international application as "Rasul".

MPEP 1893.01(e), Correction of Inventorship, states in relevant part,

> Where there has been no change of inventorship but 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).

Pursuant to MPEP 605.04(c), a petition to change an inventor's name must include the appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected or a copy of the court order. In the present case, the requisite petition fee and statement have been provided.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.182 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 25 May 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 22 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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In re Application of :
Tuncer ASLAN et al :
Application No. 10/558,243 : ON PETITION
Filed: November 23, 2005 :
Attorney Docket No. :

This is in response to the "Petition under 37 CFR 1.47(a), filed July 22, 2009.

The petition is DISMISSED.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION. Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

On November 23, 2005, the above-identified application was filed with the U.S. Patent and Trademark Office on behalf of the five inventors, A. Evren Ozarslan, Filiz Sahbaz, N. Sait Uluozyurt, Nihat Arsian and Tuncer Arslan. Evren Ozarslan, Filiz Sahbaz, N. Sait Uluozyurt, and Nihat Arslan executed the Declaration and Power of Attorney for this application on November 16, 2005, November 9, 2005, November 9, 2005, and November 9, 2005 respectively. Petitioner indicates that after diligent efforts to have inventor Tuncer Arslan sign, Tuncer Arslan has refused to sign. Specifically, petitioner indicates that Tuncer Arslan was presented a copy of the

Declaration and Power of Attorney along with a complete copy of the application as originally filed. Petitioner also indicates that Tuncer Arslan was contacted by mobile telephone by Mr. Sevinc and asked if he would be willing to sign the Declaration and Power of Attorney. Mr. Sevinc states that Tuncer Arslan informed him that since he was no longer employed by the assignee, he would not be wiling to sign any documents relating to the assignee. Subsequently, Mr. Aydin Mutlu, who also represents the assignee, and works as a patent agent with Mr. Sevinc, sent a courier package to Tuncer Arslan, at his last known address. The package included a copy of the entire application as originally filed in the United States Patent and Trademark Office, an assignment and a declaration to be executed by Tuncer Arslan. A cover letter asked Tuncer Arslan to review the contents of the courier package, execute the declaration and assignment documents and return the executed documents to Mr. Mutlu no later than July 16, 2009. The courier package was returned unopened. Petitioner includes a statement from the courier that the non-signing inventor Tuncer Arslan returned the courier package to the courier for return delivery to Mr. Mutlu without opening the said package. Petitioner submits that diligent efforts have been made to contact inventor Tuncer Arslan, and that he refuses to sign the appropriate declaration and power of attorney documents and that granting of this petition is necessary in order to preserve the rights of the parties or prevent irreparable damage.

A further review of the application file indicates that on August 6, 2009, the Office received a communication from Tuncer Arslan regarding his refusal to sign. The letter does not substantiate a refusal to sign, but presents a condition necessary for his signature. A request for a condition necessary for signature does not constitute a non-signing inventor who refuses to sign. The petition is therefore dismissed.

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

By Mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand:
U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

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

Telephone inquiries should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ARENT FOX LLP
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SUITE 400
WASHINGTON, DC 20036

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FEB 02 2010

In re Application of :
Tuncer ASLAN et al :
Application No. 10/558,243 : ON PETITION
Filed: November 23, 2005 :
Attorney Docket No. :

This is in response to the "Petition under 37 CFR 1.47(a), filed January 20, 2010.

The petition is DISMISSED AS MOOT.

A further review of the application file indicates that on January 20, 2010, the Office received a communication from the applicant's representative that included a Declaration and Power of Attorney, The newly submitted Declaration presents the signature of Tuncer Aslan, the previously non-signing inventor.

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

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office
Customer Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

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

Telephone inquiries should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HOWSON & HOWSON LLP
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON, PA 19034

Mail Date: 04/20/2010

Applicant	: Louise C. Showe	: DECISION ON REQUEST FOR
Patent Number	: 7640114	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/558,252	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Ophir Fromovich	: DECISION ON REQUEST FOR
Patent Number	: 7597557	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/558,260	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **156** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JOEL D. SKINNER, JR.
SKINNER AND ASSOCIATES
212 COMMERCIAL ST.
HUDSON WI 54016

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DEC 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Christopher ADEY	:	
Application No. 10/558,345	:	DECISION ON PETITION
Filed: August 15, 2006	:	
Attorney Docket No. ARD136USA	:	

This is a decision on the petition, filed October 02, 2009, which is being treated as a petition under 37 CFR 1.8(b) (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.8(b) is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of March 02, 2009, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before June 02, 2009. The application was abandoned on June 03, 2009.

Petitioner asserts that the abandonment be withdrawn as petitioner timely filed a response to the final Office action mailed, March 02, 2009. Petitioner has provided the Office with a copy of the post card receipt dated June 08, 2009, with a Certificate of Mailing date of June 01, 2009, which makes the reply timely filed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

The application file is being referred to Technology Center AU 3653 for appropriate action on the concurrently filed amendment.

Thurman K. Page
Petitions Examiner
Office of Petitions

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RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Atsuhiko Ohta	: DECISION ON REQUEST FOR
Patent Number	: 7662245	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/558,359	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

2 9 JAN 2007

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

In re Application of	:	
Kaddani et al.	:	
Application No. 10/558,386	:	
PCT No.: PCT/SE04/00834	:	
Int. Filing Date: 28 May 2004	:	COMMUNICATION
Priority Date: 13 June 2003	:	
Att. Docket No.: 43315-225720	:	
For: Welding Process	:	

This is in response to the declaration of the inventors filed on 29 November 2005 (a copy of which was filed on 19 January 2007), which is being treated under 37 CFR 1.42.

BACKGROUND

This international application was filed on 28 May 2004, claimed an earliest priority date of 13 June 2003, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 23 December 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 13 December 2005. Applicants filed, *inter alia*, the basic national fee on 29 November 2005.

On 21 November 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) and a surcharge under 37 CFR 1.492(h). The Notification indicated that "An inventor listed on the international application is not shown on the declaration."

DISCUSSION

Review of the declaration of the inventors filed on 29 November 2005 reveals that joint inventor Ahmed KADDANI is indicated to be "deceased" and that Jan Smede has signed in the capacity of "legal representative of Mr. Kaddani." 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 inspection of the declaration filed on 29 November 2005 reveals that it identifies the citizenship, residence and postal address of the deceased inventor and of the legal representative, and is overall acceptable for purposes of compliance with 37 CFR 1.42 and 1.497(a) and (b). As such, the Notification of Missing Requirements mailed on 21 November 2006 was issued in error, and it is hereby **VACATED**.

CONCLUSION

The declaration is **ACCEPTED** under 37 CFR 1.42, without prejudice.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **29 November 2005**.

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

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/23/2010

Applicant	: David Freson	: DECISION ON REQUEST FOR
Patent Number	: 7607910	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/558,399	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1003** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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In re Application of	:	
Matsui, et al.	:	
Application No. 10/558,422	:	LETTER REGARDING
Filed: November 29, 2005	:	PATENT TERM ADJUSTMENT
Docket No. 4633-0150PUS1	:	

This is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed November 3, 2009. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **523 days**. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On September 22, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 538 days. On November 3, 2009, applicants submitted the instant comment. Applicants disclose that they believe that the patent term adjustment indicated in the Determination of Patent Term Adjustment is incorrect and should be recalculated. Applicants state no basis for the request for review of the patent term adjustment.

A review of the patent term adjustment calculations for the above-identified application reveals that the Office failed enter a reduction for an Information Disclosure Statement filed on July 7, 2009. After applicants filed a reply on June 22, 2009 to a non-final Office action, applicants submitted a

supplemental reply or paper in the form of an Information Disclosure Statement (IDS) on July 7, 2009. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed July 7, 2009, reveals that applicants did not include a statement under 37 CFR 1.704(d).[1] Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment should have been reduced by 15 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, June 23, 2009, and ending on the date that the IDS was filed, July 7, 2009. Accordingly, a period of reduction of 15 days will be entered.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **523 days** (569 days of Office delay - 46 days of applicant delay).

As this letter was submitted to advise the Office of an error in applicants' favor, no fee under 37 CFR 1.18(e) is required. 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 applicant will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

---

[1] Pursuant to 37 CFR § 1.704(d):

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

Telephone inquiries specific to this decision should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Friday
Date: 2/19/2010

PALM INTRANET

Time: 17:47:48

PTA Calculations for Application: 10/558422			
Application Filing Date:	11/29/2005	PTO Delay (PTO):	569
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	31
Post-Issue Petitions:	0	Total PTA (days):	523
PTO Delay Adjustment:	-15		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
67	02/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		15	
58	09/22/2009	MAIL NOTICE OF ALLOWANCE			
57	09/17/2009	ISSUE REVISION COMPLETED			
56	09/17/2009	DOCUMENT VERIFICATION			
55	09/17/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
54	09/16/2009	NOTICE OF ALLOWABILITY			
53	06/05/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	07/07/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51	07/07/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	06/22/2009	NEW OR ADDITIONAL DRAWING FILED			
49	07/31/2009	DATE FORWARDED TO EXAMINER			
48	06/22/2009	RESPONSE AFTER NON-FINAL ACTION		2	40
47	07/07/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	06/05/2009	REFERENCE CAPTURE ON IDS			
45	06/05/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	07/07/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	06/05/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	03/20/2009	ELECTRONIC REVIEW			
41	03/20/2009	EMAIL NOTIFICATION			
40	03/20/2009	MAIL NON-FINAL REJECTION			

39	03/16/2009	NON-FINAL REJECTION			
38	12/19/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
37	12/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	34
36	12/19/2008	MISCELLANEOUS INCOMING LETTER			
35	01/15/2009	DATE FORWARDED TO EXAMINER			
34	12/19/2008	RESPONSE AFTER NON-FINAL ACTION		29	20
33	12/19/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	12/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	08/28/2008	DECISION MADE BY CLASSIFICATION DIVISION			
23	08/28/2008	REQUEST FOR CLASSIFICATION DIVISION DECISION			
22	08/20/2008	ELECTRONIC REVIEW			
21	08/20/2008	EMAIL NOTIFICATION			
20	08/20/2008	MAIL NON-FINAL REJECTION	569		5
19	08/18/2008	NON-FINAL REJECTION			
15	11/29/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
11	07/16/2008	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	11/29/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
9	11/29/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	07/16/2008	CASE DOCKETED TO EXAMINER IN GAU			
7	05/19/2008	TRANSFER INQUIRY TO GAU			
6	11/29/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	11/29/2005	371 COMPLETION DATE			
4	08/01/2006	APPLICATION DISPATCHED FROM OIPE			
3	08/01/2006	NOTICE OF DO/EO ACCEPTANCE MAILED			
2	06/03/2006	CLEARED BY OIPE CSR			
1	11/29/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

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0 9 JAN 2007

KRATON POLYMERS U.S. LLC
WESTHOLLOW TECHNOLOGY CENTER
3333 HIGHWAY 6 SOUTH
HOUSTON, TX 77082

In re Application of	:	
Maris et al.	:	
Application No.: 10/558,446	:	DECISION
PCT No.: PCT/EP05/51300	:	
Int. Filing Date: 21 March 2005	:	ON
Priority Date: 31 March 2004	:	
Attorney Docket No.: L0009/US	:	PETITION
For: Hydrogenated Styrenic Block Copolymer Compositions With Improved High Temperature Overmolding Properties	:	

This is in response to the petition to withdraw the holding of abandonment filed on 18 October 2006.

BACKGROUND

This international application was filed on 21 March 2005, claimed an earlier priority date of 31 March 2004, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 13 October 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 30 September 2006.

On 12 October 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant, indicating that this international application had become abandoned with respect to the national stage in the United States for failure "to provide the full U.S. Basic National Fee by 30 months."

DISCUSSION

Petitioner requests withdrawal of the holding of abandonment on the basis that the Transmittal Letter filed on 28 November 2005 included an authorization to charge fees to counsel's Deposit Account. Review of the record reveals that the Transmittal Letter filed on 28 November 2005 is present in the application file. Said Transmittal Letter requests that the USPTO "Please charge my Deposit Account No. 50-1951 in the amount of $900.00 to cover the above fees;" the fees itemized in the Transmittal Letter include a $300.00 basic national fee. It also states that "The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account 50-1951." In view of this fee authorization, the Notification of Abandonment mailed on 12 October 2006 was issued in error, and it is hereby **VACATED**.

DECISION

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

This application is being returned to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring 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).

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

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Pearne & Gordon LLP
1801 East 9th Street
Suite 1200
Cleveland, OH 44114-3108

Mail Date: 04/20/2010

Applicant	: Franke Atsma	: DECISION ON REQUEST FOR
Patent Number	: 7611763	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/558,447	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **617** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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RAHWAY NJ 07065-0907

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SEP 15 2008

In re Application of
Waddell et al.
Application No. 10/558,454
Filed: November 28, 2005
Attorney Docket No. 21417P

DECISION ON PETITION

This is a decision on the renewed petition, filed July 11, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to timely pay the issue and publication fees on or before April 10, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed January 10, 2008.

Petitioner asserts that the Notice dated January 10, 2008 was not received. Petitioner has provided a copy of the case file jacket and docket records for the above-identified application.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and

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3. a copy of the master docket for the firm docket record where the nonreceived Notice action would have been entered had it been received must be attached to and referenced in the practitioner's statement. 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 master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements. Items (1) and (3) have not been satisfied.

As to item (1), petitioner needs to describe the system used for recording Office actions and establish that the system was sufficiently reliable.

As to item (3), petitioner should provide a copy of a master docket, where the non received Office action would have been entered. 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 master exists petitioner should states so. If no master docket exists petitioner should provide file jacket, incoming mail log; calendar and reminder system. Any of these documents will support the already submitted individual docket record. If petitioner cannot supplement the evidence already presented, petitioner should consider filing a petition under 37 CFR 1.137(b).

It should further be noted petitioner needs to include the correct application number 10/558,454 on all future correspondence.

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

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By facsimile: **(571) 273-8300**
Attn: Office of Petitions

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

Charlema Grant
Petitions Attorney
Office of Petitions

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P O BOX 2000
RAHWAY NJ 07065-0907

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DEC 17 2008

In re Application of :
Waddell et al. :
Application No. 10/558,454 : DECISION ON PETITION
Filed: November 28, 2005 :
Attorney Docket No. 21417P :

This is a decision on the renewed petition, filed November 19, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before April 10, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed January 10, 2008.

Petitioner asserts that the Notice of Allowance and Notice of Allowability dated January 10, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Notice of Allowance and Notice of Allowability was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice of Allowance and Notice of Allowability was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Notice of Allowance and Notice of Allowability would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such,

as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 1626 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of January 10, 2008. The period for paying the issue and publication fees and submitting corrected drawings will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Michael L Goldman
Nixon Peabody
1100 Clinton Square
Rochester, NY 14604

Mail Date: 08/04/2010

Applicant	: Satoshi Ishigai	: DECISION ON REQUEST FOR
Patent Number	: 7644012	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/558,455	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **924** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

PAGE 1/1 * RCVD AT 7/30/2009 11:25:12 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/36 * DNIS:2709990 * CSID:7033080552 * DURATION (mm-ss):00-52

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/13/09

TO SPE OF : ART UNIT 3654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10558460 Patent No.: 7523807 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

JOHN C. NGUYEN
SUPERVISORY PATENT EXAMINER
SPE

3654
Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTOL-306 (REV. 7/03)

07/30/09 THU 10:29 FAX 7033080552 USPTOGROUP3100 001

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27 OCT 2006

Buchanan Ingersoll
Burns Doane Swecker & Mathis
P O Box 1404
Alexandria VA 22313-1404

In re Application of :
POPP, et al. :
Application No.: 10/558,471 : DECISION ON PETITION
PCT No.: PCT/DE04/00590 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 23 March 2004 :
Priority Date: 25 April 2003 :
Attorney Docket No.: 004600-052 :
For: METHOD FOR QUICKLY DETERMINING QUALITIES/QUALITATIVE CHANGES IN ANY SYSTEM

The petition to revive under 37 CFR 1.137(b) filed 23 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

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

11 SEP 2006

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Pearl Cohen Zedek Latzer
Suite 1001 10 Rockefeller Plaza
New York NY 10020

In re Application of KNACHATUROVE et al.
Application No.: 10/558,473
PCT No.: PCT/IL04/00173
Int. Filing: 22 February 2004
Priority Date: 27 February 2003
Attorney Docket No.: P-8404-US
For: SYSTEM FOR RECOVERING IN PUT POLARIZATION STATE OF OPTICAL BEAM AT PROPORTIONAL INTENSITY

DECISION ON

PETITION TO REVIVE

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 28 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" 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

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MCDERMOTT WILL & EMERY LLP
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WASHINGTON, DC 20005-3096

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OCT 07 2008

OFFICE OF PETITIONS

In re Application of :
Rains Jr., et al. :
Application No. 10/558,481 : DECISION GRANTING PETITION
Filed: November 28, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 049480-0071 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 3, 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.*[1]

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

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

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MAY 29 2009

OFFICE OF PETITIONS

In re Application of :
Jack C. Rains Jr., et al :
Application No. 10/558,481 : DECISION GRANTING PETITION
Filed: November 28, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 049480-0071 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 28, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 6, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2875 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of
Rains Jr. et al.
Application No. 10/558,481
Filed: November 28, 2005
Attorney Docket No. 049480-0071

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 29, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/832,464, filed April 27, 2004, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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 Commissioner may require additional information where there is a question whether the delay was unintentional.

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, 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 above-noted, 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 applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant 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. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority 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) 272-3282.

This matter is being referred to Technology Center Art Unit 2875 for appropriate action on the amendment filed December 29, 2008, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/558,481	11/28/2005	2875	4980	049480-0071	25	2

CONFIRMATION NO. 1291

CORRECTED FILING RECEIPT

20277
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

Date Mailed: 07/10/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Jack C. Rains Jr., Oak Hill, VA;
Matthew Brown, Falls Church, VA;

Power of Attorney: The patent practitioners associated with Customer Number 20277

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US05/13779 04/25/2005
and is a CIP of 10/832,464 04/27/2004 PAT 6,995,355

Foreign Applications

UNITED STATES OF AMERICA 10832464 04/27/2004

If Required, Foreign Filing License Granted: 08/19/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/558,481**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

OPTICAL INTEGRATING CHAMBER LIGHTING USING MULTIPLE COLOR SOURCES TO ADJUST WHITE LIGHT

Preliminary Class

362

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

Mail Date: 04/21/2010

Applicant	: Jack C. Rains Jr.	: DECISION ON REQUEST FOR
Patent Number	: 7625098	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/558,481	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **88** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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12 OCT 2006

Pearl Cohen Zedek LLP
1500 Broadway
12th Floor
New York, New York 10036

In re Application of
GRUNBERG, et al.
Application No.: 10/558,482
PCT No.: PCT/IL03/00752
Int. Filing Date: 18 September 2003
Priority Date: 26 September 2002
Attorney Docket No.: P-8402-US
For: FIBRE OPTIC CABLE COUPLER

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 28 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

24 APR 2006

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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902-0902
MINNEAPOLIS MN 55402

In re Application of
ANTONIO CRUZ
Application No.: 10/558,523
PCT No.: PCT/CA04/00769
Int. Filing Date: 27 May 2004
Priority Date: 27 May 2003
Attorney Docket No.: 14096.1003USWO
For: COMPOSITIONS COMPRISING GASTRIN COMPOUNDS AND THEIR USE IN DIABETES

DECISION

The above-identified application is before the PCT Legal Office for consideration of matters under 35 U.S.C. 371.

On 27 May 2004, applicant filed international application No. PCT/CA04/00769, which claimed priority of an earlier international application filed 27 May 2003 and designating the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 09 December 2004.

On 28 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 requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a copy of the international application. The submission, identifying PCT/CA04/00769, was assigned U.S. application number: 10/558,523.

DISCUSSION

An executed oath or declaration for all inventors as required by 35 U.S.C. 371(c)(4) along with the $130 surcharge for filing the oath or declaration after the thirty month period, was not provided and is required. The oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), should identify the application by the international application number and the international filing date.

CONCLUSION

The application is being held in the PCT Legal Office to await applicant's further reply. Applicant has TWO (2) MONTHS from the mail date of this decision within which to provide a proper reply. The period time set forth may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail

Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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20 JUL 2006

IVOR R. ELRIFI, ESQ.
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

In re Application of
ANTONIO CRUZ
Application No.: 10/558,523
PCT No.: PCT/CA04/00769
Int. Filing Date: 27 May 2004
Priority Date: 27 May 2003
Attorney Docket No.: 14096.1003USWO
(22292-022 NATL)
For: COMPOSITIONS COMPRISING GASTRIN COMPOUNDS AND THEIR USE IN DIABETES

DECISION

The above-identified application is before the PCT Legal Office for consideration of matters under 35 U.S.C. 371.

On 27 May 2004, applicant filed international application No. PCT/CA04/00769, which claimed priority of an earlier international application filed 27 May 2003 and designating the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 09 December 2004.

On 28 November 2005, applicant filed, through the law firm of HAMRE, SCHUMANN, MUELLER & LARSON, a transmittal letter for entry into the national stage in the United States (Form PTO-1390) 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. The submission, identifying PCT/CA04/00769, was assigned U.S. application number: 10/558,523.

On 28 November 2005, applicant also filed, through the law firm of MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, a transmittal letter for entry into the national stage in the United States (Form PTO-1390). The submission, identifying PCT/CA04/00769, was assigned U.S. application number: 10/558,533. No fees were processed.

On 24 April 2006, a communication was sent to each law firm requesting an executed oath or declaration for all inventors as required by 35 U.S.C. 371(c)(4) along with the $130 surcharge for filing the oath or declaration after the thirty month period.

On 20 June 2006, the law firm of HAMRE, SCHUMANN, MUELLER & LARSON filed a declaration of sole inventor Antonio Cruz, which was executed on 20 December 2006.

On 23 June 2006, the law firm of MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO filed a declaration of sole inventor Antonio Cruz, which was executed on 27 May 2006.

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 on the deadline for the thirty month period, 28 November 2005 (27 November 2005 was a Sunday). The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of two sets of national stage papers to enter the United States was improper.

The papers filed as U.S. application no. 10/558,533 will be placed in U.S. application number 10/558,523.

Applicant should use application number **10/558,523** in all future communications with the U.S. Patent and Trademark Office with regard to the U.S. national stage of international application PCT/CA04/00769.

Pursuant to MPEP §403.02[1], correspondence will be sent to the law firm of MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO.

CONCLUSION

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to: (1) merge the papers filed in U.S. Application no. 10/558,533 into U.S. Application no. 10/558,523; (2) change the correspondence address in PALM to that of the law firm of MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO.

Applicant is advised that all future communication regarding PCT/CA04/00769 should reference U.S. serial no. **10/558,523** as 10/558,533 will no longer be an active file.

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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902-0902
MINNEAPOLIS MN 55402

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[1]MPEP 403.02 Two Attorneys for the Same Application, states:

> .... If, after one attorney is appointed, a second attorney is later appointed without revocation of the power of the first attorney, the correspondence address of the second attorney is entered into the application file record. Ex parte Eggan, 1911 C.D. 213, 172 O.G. 1091 (Comm'r Pat. 1911)), so that the Office letters are to be sent to him or her.

20 JUN 2007

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NEW YORK, NY 10023

In re Application of BEN-TZUR et al	:	
U.S. Application No.: 10/558,528	:	
PCT Application No.: PCT/IL2004/000457	:	
Int. Filing Date: 28 May 2004	:	
Priority Date Claimed: 29 May 2003	:	DECISION
Attorney Docket No.: U 016049-4	:	
For: PRE AND POST-HARVEST QC DATA ACQUISITION SYSTEM FOR AGRICULTURAL PRODUCTS	:	

This is in response to applicant's "Petition by Joint Inventor Filing on Behalf of Other Joint Inventor" filed 02 February 2007, which is being treated under 37 CFR 1.42 and 37 CFR 1.47(a).

BACKGROUND

On 28 May 2004, applicant filed international application PCT/IL2004/000457, which claimed priority of an earlier United States application filed 29 May 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 09 December 2004. The thirty-month period for paying the basic national fee in the United States expired on 29 November 2005.

On 28 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 05 July 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 02 February 2007, applicant filed the present 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 Ariel Shapiro is incapacitated, and that Miri Shapira is the legal representative.

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 02 February 2007 fails to satisfy items (1), (3), and (4) above.

II. Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventor on his own behalf and on behalf of the nonsigning legal representative.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.
>
> * * *
>
> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by

> the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that the signature of the legal representative Miri Shapira could not be obtained. Because the petition indicates that two letters were purportedly delivered successfully, it would not be reasonable to allege that Miri Shapira cannot be found, although it is possible that she refuses to sign the application papers. Although the petition contains evidence that suggests a refusal to sign, i.e. Miri Shapira's non-response to the letters mailed in September 2006 and October 2006, petitioner must supply an English translation of the mail delivery receipts. Furthermore, the petition has not demonstrated that a complete copy of the application papers (including specification, claims, and drawings) was ever presented to Miri Shapira. Thus it would not be reasonable to conclude at the present time that Miri Shapira refuses to sign the application papers.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition fails to state the last known address of the nonsigning legal representative.

CONCLUSION

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

For the reasons set forth in §II above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file a proper response will result in abandonment of the application. No additional petition fee is required.

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

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30 JAN 2008

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In re Application of BEN-TZUR et al :
U.S. Application No.: 10/558,528 :
PCT Application No.: PCT/IL2004/000457 :
Int. Filing Date: 28 May 2004 :
Priority Date Claimed: 29 May 2003 : DECISION
Attorney Docket No.: U 016049-4 :
For: PRE AND POST-HARVEST QC DATA :
ACQUISITION SYSTEM FOR :
AGRICULTURAL PRODUCTS :

This is in response to applicant's "Request for Reconsideration of Decision on Petition" filed 16 November 2007 and "Petition to Withdraw Holding of Abandonment" filed 07 January 2008, which is being treated under 37 CFR 1.181.

BACKGROUND

On 28 May 2004, applicant filed international application PCT/IL2004/000457, which claimed priority of an earlier United States application filed 29 May 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 09 December 2004. The thirty-month period for paying the basic national fee in the United States expired on 29 November 2005.

On 28 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 05 July 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 02 February 2007, applicant filed a request for status under 37 CFR 1.42 and petition under 37 CFR 1.47(a).

On 20 June 2007, this Office mailed a decision dismissing the 02 February 2007 request for status and petition.

On 16 November 2007, applicant filed a request for reconsideration of the decision mailed 20 June 2007.

On 26 November 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/EO/EO/909).

On 07 January 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of the application file reveals that the request for reconsideration filed 16 November 2007 is present. Thus, the Notification of Abandonment was sent in error.

The request for reconsideration is accompanied by a declaration which bears the purported thumbprint of inventor Ariel Shapiro. The petition filed 02 February 2007 stated that Ariel Shapiro was unable to sign the declaration due to illness. Although a thumbprint does not usually represent a person's signature, a thumbprint would be acceptable as the signature if it is established that that the thumbprint is what is normally used by the inventor to sign. Applicant has not explained why the inventor is in such poor health that inventor can affix a thumbprint but cannot apply his normal signature. Furthermore, applicant has not demonstrated why the inventor can use his thumb to do a thumbprint but cannot use his thumb to insert an S-signature (see 37 CFR 1.4(d)(2)) onto the declaration. If the inventor cannot supply his normal or S-signature due to incapacity, status under 37 CFR 1.43 would be required.

CONCLUSION

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

The Notification of Abandonment (Form PCT/EO/EO/909) mailed 26 November 2007 is hereby VACATED.

For the reasons above, the request for reconsideration of the decision mailed 20 June 2007 is DISMISSED without prejudice.

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

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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In re Application of BEN-TZUR et al	:	
U.S. Application No.: 10/558,528	:	
PCT Application No.: PCT/IL2004/000457	:	
Int. Filing Date: 28 May 2004	:	
Priority Date Claimed: 29 May 2003	:	DECISION
Attorney Docket No.: U 016049-4	:	
For: PRE AND POST-HARVEST QC DATA ACQUISITION SYSTEM FOR AGRICULTURAL PRODUCTS	:	

This is in response to applicant's "Request for Reconsideration of Decision on Petition" filed 01 May 2008, which is being treated as a renewed request for status under 37 CFR 1.43 and a renewed petition under 37 CFR 1.47(a).

BACKGROUND

On 28 May 2004, applicant filed international application PCT/IL2004/000457, which claimed priority of an earlier United States application filed 29 May 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 09 December 2004. The thirty-month period for paying the basic national fee in the United States expired on 29 November 2005.

On 28 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 05 July 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 02 February 2007, applicant filed a request for status under 37 CFR 1.43 and petition under 37 CFR 1.47(a).

On 20 June 2007, this Office mailed a decision dismissing the 02 February 2007 request for status and petition.

On 16 November 2007, applicant filed a request for reconsideration of the decision mailed 20 June 2007.

On 26 November 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/EO/EO/909).

On 07 January 2008, applicant filed a petition under 37 CFR 1.181.

On 30 January 2008, this Office mailed a decision granting the 07 January 2008 petition and dismissing the request for reconsideration fled 16 November 2007.

On 01 May 2008, applicant filed the present renewed request for status under 37 CFR 1.43 and petition under 37 CFR 1.47(a).

DISCUSSION

I. Request for Status Under 37 CFR 1.43

37 CFR 1.43 provides, "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."

The renewed request for status sufficiently establishes that joint inventor Ariel Shapiro is incapacitated. In particular, applicant has supplied a physician's affidavit which states that Mr. Shapiro is incapacitated. The petition under 37 CFR 1.47(a) filed 02 February 2007 states that Miri Shapira is the legal representative of Mr. Shapiro.

II. Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventor on his own behalf and on behalf of the nonsigning legal representative.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.
>
> * * *
>
> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that the signature of the legal representative Miri Shapira could not be obtained. Because the petition indicates that two letters were purportedly delivered successfully, it would not be reasonable to allege that Miri Shapira cannot be found, although it is possible that she refuses to sign the application papers. Although the petition contains evidence that suggests a refusal to sign, i.e. Miri Shapira's non-response to the letters mailed in September 2006 and October 2006, petitioner must supply an English translation of the mail delivery receipts. Furthermore, the petition has not demonstrated that a complete copy of the application papers (including specification, claims, and drawings) was ever presented to Miri Shapira. Thus, it would not be reasonable to conclude at the present time that Miri Shapira refuses to sign the application papers.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition fails to state the last known address of the nonsigning legal representative.

CONCLUSION

For the reasons set forth in §I above, the renewed request for status under 37 CFR 1.43 is GRANTED.

For the reasons set forth in §II above, the renewed petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file a proper response will result in abandonment of the application. No additional petition fee is required.

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

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In re Application of BEN-TZUR et al	:	
U.S. Application No.: 10/558,528	:	
PCT Application No.: PCT/IL2004/000457	:	
Int. Filing Date: 28 May 2004	:	
Priority Date Claimed: 29 May 2003	:	DECISION
Attorney Docket No.: U 016049-4	:	
For: PRE AND POST-HARVEST QC DATA ACQUISITION SYSTEM FOR AGRICULTURAL PRODUCTS	:	

This is in response to applicant's "Request for Reconsideration of Decision on Petition" filed 13 June 2008, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 28 May 2004, applicant filed international application PCT/IL2004/000457, which claimed priority of an earlier United States application filed 29 May 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 09 December 2004. The thirty-month period for paying the basic national fee in the United States expired on 29 November 2005.

On 28 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 05 July 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 02 February 2007, applicant filed a request for status under 37 CFR 1.43 and petition under 37 CFR 1.47(a).

On 20 June 2007, this Office mailed a decision dismissing the 02 February 2007 request for status and petition.

On 16 November 2007, applicant filed a request for reconsideration of the decision mailed 20 June 2007.

On 26 November 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/EO/EO/909).

On 07 January 2008, applicant filed a petition under 37 CFR 1.181.

On 30 January 2008, this Office mailed a decision granting the 07 January 2008 petition and dismissing the request for reconsideration fled 16 November 2007.

On 01 May 2008, applicant filed a renewed request for status under 37 CFR 1.43 and a petition under 37 CFR 1.47(a).

On 03 June 2008, this Office mailed a decision granting the request for status under 37 CFR 1.43 and dismissing the petition under 37 CFR 1.47(a).

On 13 June 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition requests that the declaration filed 16 November 2007 be accepted. Such declaration bears the thumbprint of the second inventor Ariel Shapiro in lieu of Mr. Shapiro's signature.

MPEP 605.04(d) states in relevant part, " If the applicant is unable to write, his or her mark as affixed to the oath or declaration must be attested to by a witness."

Petitioner has submitted an affidavit of physician Amir Oron, stating that Mr. Shapiro suffers from a medical condition that prevents him from writing his signature but that does not compromise Mr. Shapiro's mental awareness. Furthermore, petitioner has submitted the affidavit of Sanford Colb, the person who personally witnessed Mr. Shapiro affixing his mark on the declaration. Accordingly, the declaration filed 11 November 2007 is deemed properly executed by Mr. Shapiro.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 28 May 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 16 November 2007.

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

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0 3 MAR 2008

Amster, Rothstein & Ebenstein LLP
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In re Application of
BROWNLEE al.
U.S. App. No.: 10/558,532
PCT No.: PCT/US04/16562
Int. Filing Date: 27 May 2004
Priority Date: 29 May 2003
Attorney Docket No.: 96700/1070
For: USE OF PARP INHIBITORS FOR PREVENTION AND TREATMENT OF DIABETIC AND INSULIN RESISTANCE COMPLICATIONS

DECISION ON PETITION
UNDER 37 CFR 1.182

This decision is issued in response to the "Petition under 37 CFR 1.181 to Withdraw Holding Of Abandonment Based on Evidence That a Reply Was Timely Filed or Mailed" filed 19 February 2008, which is being treated as a petition under 37 CFR 1.182. Deposit Account No. 01-1785 will be charged the $400 petition fee, as authorized.

BACKGROUND

On 27 May 2004, applicants filed international application PCT/US04/16562 which claimed a priority date of 29 May 2003 and which designated the United States. On 28 April 2005, a copy of the international application was transmitted to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 29 November 2006.

On 28 November 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, the basic national fee and a preliminary amendment.

On 15 December 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 31 January 2008, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned with respect to the United States for failure to respond to the Notification Of Missing Requirements.

On 19 February 2008, applicants filed the petition to withdraw the holding of abandonment considered herein. In the petition, applicants assert that they timely submitted the materials required by the Notification Of Missing Requirements. Specifically, applicants assert that a declaration was filed on 12 February 2007, however, applicants note that the submission was submitted under an incorrect application number (10/547,980).

DISCUSSION

Where, as here, materials have been filed under the wrong application number, a grantable petition under 37 CFR 1.182 is required to confirm the previous submissions and to have such submissions treated as having been filed in the present application on the respective filing dates, as required to withdraw the holding of abandonment. Such a petition requires: (1) payment of the petition fee; (2) the presence in the earlier submissions of an adequate reference to the correct application, and (3) evidence confirming the previous submissions (including copies of such materials).

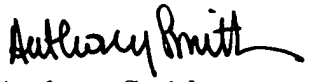
In order to confirm the purported 12 February 2007 submission, applicants have provided copies of return postcards itemizing the materials filed by applicants on 12 February 2007 bearing USPTO receipt stamps for the respective dates, as well as copies of materials which appear to correspond to items filed on 12 February 2007. With respect to the declaration filed on 12 February 2007, the original submission has been located and transferred to the present application file. This document bears a USPTO receipt stamp dated 12 February 2007, confirming the asserted filing date. The 12 February 2007 filing of the declaration is therefore confirmed.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

In view of the receipt of the declaration filed 12 February 2007, which was a timely response to the Notification of Missing Requirements mailed 15 December 2006, the holding of abandonment is hereby **WITHDRAWN**.

This application will be given an international filing date of 27 May 2004 and a date of 12 February 2007 under 35 U.S.C. 371. The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.



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

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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

Mail Date: 04/20/2010

Applicant	: Hans Sejr Olsen	: DECISION ON REQUEST FOR
Patent Number	: 7579177	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/558,552	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **499** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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: 04/21/2010

Applicant	: Juergen Woersinger	: DECISION ON REQUEST FOR
Patent Number	: 7637176	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/558,570	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 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 **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.

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Woodcock Washburn LLP
Cira Centre, 12th Floor
2929 Arch Street
Philadelphia, PA 19104

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OFFICE OF PETITIONS

In re Application of	:	
Alastair David Griffiths Lawson et al.	:	
Application No. 10/558,572	:	DECISION ON PETITION
Filed: January 24, 2006	:	TO WITHDRAW
Attorney Docket No. Cell-0303	:	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 6, 2007.

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

A review of the file record indicates that the power of attorney to Woodcock Washburn LLP has been revoked by the assignee of the patent application on December 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **McDonnell Boehnen Hulbert & Berghoff LLP**
300 S. Wacker Drive
32nd Floor
Chicago, IL 60606

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Date Mailed: November 8, 2007

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

Applicant: Moshal
Appl. No.: 10/558,574
Filing Date: January 17, 2007
Title: GAMING APPARATUS
Attorney Docket No.: 05-1021
Pub. No.: US 2007/0111781 A1
Pub. Date: May 17, 2007

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on June 28, 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 a "Document for an existing application", 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 Data Management at 571-272-4200.

Tammy J. Koontz
Program & Management Analyst
Office of Data Management

Adjustment date: 11/08/2007 KKING1
06/29/2007 INTEFSW 00000676 132490 10558574
01 FC:1504 300.00 CR

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11 JUN 2008

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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

In re Application of WALLACE	:	
U.S. Application No.: 10/558,578	:	
PCT Application No.: PCT/EP2004/005818	:	DECISION
Int. Filing Date: 28 May 2004	:	
Priority Date Claimed: 30 May 2003	:	
Attorney Docket No.: 09931-00047-US	:	
For: POLYMER	:	

This is in response to applicant's "Request for Corrected Official Filing Receipt" filed 09 October 2006, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 28 May 2004, applicant filed international application PCT/EP2004/005818, which claimed priority of an earlier European Patent Office application filed 30 May 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 09 December 2004. The thirty-month period for paying the basic national fee in the United States expired on 30 November 2005.

On 29 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 17 July 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 01 February 2006 as the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements.

On 09 October 2006, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of the records for international application PCT/EP2004/005818 reveals that a declaration under PCT Rule 4.17(iv) was submitted with the international application papers.

Accordingly, a new declaration was not required pursuant to 37 CFR 1.497(a). Therefore, the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements were satisfied on 29 November 2005.

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 17 July 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 corrected Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903), which should indicate 29 November 2005 as the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements, and a corrected Filing Receipt, which should indicate 29 November 2005 as the "Filing or 371(c) Date".

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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1900 EAST 9TH STREET, NATIONAL CITY CENTER
24TH FLOOR
CLEVELAND, OH 44114

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MAY 30 2008

OFFICE OF PETITIONS

In re Application of :
Isei Sato :
Application No. 10/558,587 : ON PETITION
Filed: November 29, 2005 :
Attorney Docket No. MITSP103US :

This is a decision in response to the petitions, filed May 23, 2008, under (1) 37 CFR 1.137(b) to revive the above-identified application and (2) 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue.

The petitions are **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before April 23, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 23, 2008, which set a statutory period for reply of three (3) months. A Notice of Abandonment was mailed on May 21, 2008.

The petition under 37 CFR 1.137(b) includes (1) the reply in the form of the $1,440 issue fee and the $300 publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay. Accordingly, the petition is found to comply with the requirements of 37 CFR 1.137(b).

The petition under 37 CFR 1.313(c)(2) includes, *inter alia*, (1) the petition fee of $130; (2) a Request for Continued Examination (RCE) and fee of $810; and (3) an Information Disclosure Statement (IDS). Accordingly, the petition is found to comply with the requirements of 37 CFR 1.313(c)(2).

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

Petitioner is advised that the issue fee paid on May 23, 2008, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed,

petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being forwarded to Technology Center AU 1794 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. Failure to request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.

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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

Mail Date: 04/21/2010

Applicant	: Frederic Pierron	: DECISION ON REQUEST FOR
Patent Number	: 7627234	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/558,605	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **445** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 1[illegible]

NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

In re Application of	:
Martinez-Gutierrez et al.	: PETITION DECISION
Serial Number:10/558,628	:
Filed: July 13, 2006	:
Attorney Docket No.:10451.204-US	

This is in response to the petition under 37 CFR § 1.181, filed September 25, 2007, requesting withdrawal of finality of the Office action of July 27, 2007.

BACKGROUND

A review of the history of this case reveals that the examiner mailed a non-final Office action on December 18, 2006, setting a three month shortened statutory period for reply. In this Office action, claims 13-24 were pending. The examiner rejected claims 14-17, 21, 23 and 24 under 35 U.S.C. 112, Second paragraph for being indefinite, rejected claims 13-16 and 18-24 under 35 USC 103(a) as being unpatentable over LaRoye et al. (WO 97/42301) in view of Antrim (US 5,180,669) in view of Wang (2001) supported by Thompson (US 6,468,355) and rejected claims 17 and 21 under 35 USC 103(a) as being unpatentable over LaRoye et al. (WO 97/42301) in view of Antrim (US 5,180,669) in view of Wang (2001) supported by Thompson (US 6,468,355) and further in view of Kleman-Leyer et al. (1996).

In reply thereto, Applicants filed a response on May 17, 2007 which included an amendment canceling claims 13-24 and adding new claims 25-45. Applicants' response was accompanied by remarks and arguments.

The examiner mailed a final Office action on July 27, 2007. In this Office action, claims 25-45 were pending. The examiner rejected claims 25-45 under 35 USC 103(a) as being unpatentable over LaRoye et al. (WO 97/42301) in view of Antrim (US 5,180,669) in view of Silver (US 4,795,101) supported by Thompson (US 6,468,355). It is noted that the examiner's rejection commences with "Claims 25-28, 32 and 35-45 are rejected under 35 U.S.C. 103(a)...." (p. 2,

final Office action) which appears to omit claims 29-31 and 34 from the rejection. However, the examiner does state on page 6, at the end of rejection: "Therefore, the references listed above renders obvious claims 25-45." It is thus determined that the omission of claims 29-31 and 34 was a typographical error, as it is clear from the examiner's comments that the intent of the examiner was to include these claims in the rejection. Thus, any comments pertaining herein to claims which were finally rejected in the Office action of July 27, 2007 will be interpreted to mean 'the rejection of claims 25-45 under 35 USC 103(a) as being unpatentable over LaRoye et al. (WO 97/42301) in view of Antrim (US 5,180,669) in view of Silver (US 4,795,101) supported by Thompson (US 6,468,355).'

In response thereto, applicants filed this petition on September 25, 2007 requesting reconsideration and removal of the finality of the Office action of July 27, 2007.

DISCUSSION

Applicants argue that the final Office action of July 27, 2007 was premature as the amendment of May 17, 2007 is not believed to have necessitated the new grounds of rejection. More specifically, applicants argue that the Office action of July 27, 2007 contained a new grounds of rejection based on newly cited art; that is, the rejection of claims 25-45 under 35 USC 103(a) as being unpatentable over LaRoye et al. (WO 97/42301) in view of Antrim (US 5,180,669) in view of Silver (US 4,795,101) supported by Thompson (US 6,468,355).

Applicants argue:

> Except for the elimination of step a recited in claim 13, the scope of claims 13 and 25 is identical. Furthermore, the absence of step (a) is not the reason that the new claims are subject to a new ground for rejection under 35 U.S.C. 103. Rather the 103 rejection set forth in the initial office action was withdrawn after Applicants argued that it was improper to combine Wang with the other cited references (Laroye et al., Antrim and Thompson et al.). Therefore, Applicants' amendment did not necessitate the new rejection.

It is noted that Applicants' assessment of the scope of claims 13 and 25 is accepted. In addition, another difference in scope between claims 25-45 and cancelled claims 13-24, is that claims 44 and 45 recite "The method of claim 25, wherein the saccharification and fermentation are performed as separate steps" and "The method of claim 25, wherein the saccharification and fermentation are performed simultaneously" respectively. These limitations were not present in canceled claims 13-24.

In the final Office action on July 27, 2007, the examiner withdrew the previous rejections and instituted a new rejection over claims 25-45 as being unpatentable over LaRoye et al. (WO 97/42301) in view of Antrim (US 5,180,669) in view of Silver (US 4,795,101) supported by

Thompson (US 6,468,355). With regard to the limitations present in claims 44 and 45, the examiner commented:

> ...LaRoy teach that their fermentation and saccharification are performed as separate steps. It would be obvious to one of ordinary skill in the art since the art has numerous teachings on converting stepwise fermentations to simultaneous saccharification and fermentation. Furthermore MPEP § 2144.04 V B, C, E, support that general statements making a process either separate, sequential or simultaneous is obvious (p. 5, final Office action).

Therefore, with regard to the new limitations found in claims 44 and 45, the examiner referred to the LaRoy et al. reference as well as the MPEP for support with regard to the rejection of these claims, but did not specifically add the Silver patent to the rejection to reject these claims.

With regard to the Silver patent, the examiner stated:

> While both of the above references teach some type of pretreatment of to [sic] the mash LaRoye et al. teach the addition of a [sic] cellulases, β-glucanase, and α-amylase to hydrolyze the cellulose and start to make it more amorphous to improve enzyme access to the substrate. Antrim teach an acid hydrolysis process to make the substrate more amorphous. However, neither specifically teach a pretreatment of β-glucanase in the mash before jet-cooking. Regardless this would be obvious to one of ordinary skill in the art by the time the invention was made in view of the teachings of Silver.....Silver too uses cellulase enzymes to mill grains such as corn...Silver uses GENCORE CELLULASE 150 L to steep their corn kernels...before Jet Cooking...Silver teach that GENCORE CELLULASE 150 L contains both endoglucosidase and β-glucanase .... (p. 5, final Office action).

The examiner further commented that:

> Since Silver already teach the addition of the endoglucanase before the gelatinization of the corn to the method it would be obvious to alter the sequence to add endoglucanase in the later steps or add more endoglucanase later in the absence of evidence of criticality to the contrary...(p. 6, final Office action).

The MPEP clearly states:

> ...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)....(MPEP § 706.07(a)) (emphasis added)

It is apparent that the examiner has incorporated the Silver patent into the rejection under 35 USC 103(a) in order to place a new ground of rejection *over embodiments which were already present in the claimed invention prior to Applicants' amendments* to the claims on May 17, 2007.

Therefore, the new grounds of rejection made by the examiner in the final Office action issued July 27, 2007 *were not necessitated by Applicants' amendments to the claims.*

Applicants' arguments are persuasive that the final Office action issued July 27, 2007 was premature and the finality of the Office action will be withdrawn.

DECISION

The 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 sent to the general Office facsimile number, 703-872-9306.

Bruce Kisliuk
Director, Technology Center 1600

17 JUL 2007

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

In re Application of	:	
FERSTL, Christian et al.	:	
Application No.: 10/558,660	:	
PCT No.: PCT/DE2004/001086	:	DECISION ON
Int. Filing Date: 26 May 2004	:	
Priority Date: 26 May 2003	:	PETITION
Attorney Docket No.: 5367-209PUS	:	
For: METHOD FOR PRODUCING A LASER DIODE COMPONENT, HOUSING FOR A LASER DIODE COMPONENT, AND LASER DIODE COMPONENT ITSELF	:	UNDER 37 CFR 1.47(a)

This is a decision on applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 27 February 2007.

BACKGROUND

On 26 May 2004, applicants filed international application PCT/DE2004/01086, which claimed a priority date of 26 May 2003. A copy of the international application was transmitted to the Office by 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 28 November 2005 (26 November 2005 was a Saturday).

On 28 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 28 September 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 27 February 2007, applicants submitted a petition under 37 CFR 1.47(a) and a request for a corrected filing receipt.

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), (3) and (4) have been satisfied. The balance of the $200 petition fee will be charged to deposit account no. 03-2412, as authorized. Applicants list Mr. Christian Ferstl's address as Haidauerstrasse 4; 93073 Neutraubling; Germany. The declaration complies with 37 CFR 1.497(a)-(b) and 1.47.

Item (2) has not been satisfied. Applicants have provided a statement from Manuela Koch concerning efforts to locate and obtain a signed declaration from Mr. Ferstl. In her statement, she mentions a returned envelope that she says was included with the submission. No such copy could be located. She mentions conversations that the had with Mr. Ferstl and his secretary. However, she does not indicate on what days those occurred, or whether in those conversations, if Mr. Ferstl directly acknowledged receipt of the application papers including the declaration. The translation of the 02 November 2006 letter does not translate "EILT". Finally, Ms. Koch indicates that she contacted the Registration Office to confirm Mr. Ferstl's address. Any documentary evidence of this information would be helpful.

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.

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 3 NOV 2007

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

In re Application of	:	
FERSTL, Christian et al.	:	
Application No.: 10/558,660	:	
PCT No.: PCT/DE2004/001086	:	DECISION ON
Int. Filing Date: 26 May 2004	:	
Priority Date: 26 May 2003	:	PETITION
Attorney Docket No.: 5367-209PUS	:	
For: METHOD FOR PRODUCING A LASER DIODE COMPONENT, HOUSING FOR A LASER DIODE COMPONENT, AND LASER DIODE COMPONENT ITSELF	:	UNDER 37 CFR 1.47(a)

This is a decision on applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 27 February 2007.

BACKGROUND

On 26 May 2004, applicants filed international application PCT/DE2004/01086, which claimed a priority date of 26 May 2003. A copy of the international application was transmitted to the Office by 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 28 November 2005 (26 November 2005 was a Saturday).

On 28 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 28 September 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 27 February 2007, applicants submitted a petition under 37 CFR 1.47(a) and a request for a corrected filing receipt.

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), (3) and (4) have been satisfied. The balance of the $200 petition fee will be charged to

deposit account no. 03-2412, as authorized. Applicants list Mr. Christian Ferstl's address as Haidauerstrasse 4; 93073 Neutraubling; Germany. The declaration complies with 37 CFR 1.497(a)-(b) and 1.47.

Item (2) has now been satisfied. Applicants have provided a translation of the non-translated portion of the letter sent to the applicant. The inventor was presented with a complete copy of the application papers, but did not return an executed declaration.

CONCLUSION

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

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 **27 February 2007**.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
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2 3 NOV 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Christian Ferstl
Haidauerstrasse 4
93073 Neutraubling
Germany

In re Application of
FERSTL, Christian et al.
Application No.: 10/558,660
PCT No.: PCT/DE2004/001086
Int. Filing Date: 26 May 2004
Priority Date: 26 May 2003
Attorney Docket No.: 5367-209PUS
For: METHOD FOR PRODUCING A LASER DIODE COMPONENT, HOUSING FOR A LASER DIODE COMPONENT, AND LASER DIODE COMPONENT ITSELF

Dear Mr. Ferstl:

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

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

28 JAN 2008

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551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

In re Application of	
FERSTL, Christian et al.	
Application No.: 10/558,660	
PCT No.: PCT/DE2004/001086	DECISION ON
Int. Filing Date: 26 May 2004	
Priority Date: 26 May 2003	PETITION
Attorney Docket No.: 5367-209PUS	
For: METHOD FOR PRODUCING A LASER DIODE COMPONENT, HOUSING FOR A LASER DIODE COMPONENT, AND LASER DIODE COMPONENT ITSELF	UNDER 37 CFR 1.47(a)

This is a corrected decision on applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 27 February 2007. This decision corrects a decision mailed 23 November 2007.

On 23 November 2007, the Office mailed a decision indicating that all elements of the petition under 37 CFR 1.47(a) had been satisfied and indicated that the entry requirements under 35 USC 371(c)(1),(c)(2) and (c)(4). However, the decision incorrectly indicated that the petition was dismissed.

To the extent that the 23 November 2007 decision is inconsistent with this decision it is **VACATED**.

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

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 **27 February 2007**.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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ALEXANDRIA, VA 22313-1450
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21 DEC 2006

Fish & Richardson, P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

In re Application of: Andersen et al.
Application No.: 10/558,661
PCT Application No.: PCT/CA03/01181
Int. Filing Date: 31 July 2003
Priority Date: 31 July 2002
Attorney Docket No.: 16601-024US1
For: Method of Enhancing and/or Inducing Neuronal Migration Using Erythropoietin

: DECISION ON PETITION
: UNDER 37 CFR 1.137(b)

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 28 November 2005.

BACKGROUND

On 31 July 2003, Applicant filed international application PCT/CA03/01181, which claimed a priority of an earlier application from the United States filed on 31 July 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 January 2005.

International application PCT/CA03/01181became abandoned as to the United States for failure to timely pay the basic national fee.

On 28 November 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or

Applicants are required to submit a new oath or declaration in compliant with 37 CFR 1.497(a)-(b) within **TWO (2) MONTHS** from the mailing date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT** of the application.

Application number **10/558,661** is being forwarded to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision including awaiting receipt of the oath or declaration required above.

Taofiq A. Solola, PhD. JD.
PCT Legal Administration
Telephone: 571-272-6094
Facsimile: 571-272-0459

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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), applicant has provided the required reply under 35 U.S.C. 371 (i.e. payment of the basic national fee).

With regard to Item (2), the appropriate petition fee of $750 as required by 37 CFR 1.17(m) has been paid.

With regard to Item (3), Applicants' statement that "the entire period of delay in filing a National Phase filing of PCT Application No. PCT/CA03/001181, from January 31, 2005 until the filing of a grantable petition under 37 CFR §1.137(b), was unintentional" is construed to mean "[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." However, if this interpretation is incorrect Applicant must notify the PCT Legal Office immediately

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

A review of the application file reveals that applicant has satisfied the requirements of 37 CFR 1.137(b).

A review of the executed combined declaration and power of attorney filed 11/23/05, reveals the declaration has multiple page 2. The declaration does not meet the requirements of 37 CFR 1.497 (a)-(b), and therefore not acceptable. MPEP 201.03 states "[w]here individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration."

CONCLUSION

For the reason set forth above, the petition to revive the international application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America, and will be processed, under 35 U.S.C. 371, as application number **10/558,661**, at this time.

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03 JAN 2007

27389
NORRIS McLAUGHLIN & MARCUS PA
875 Third Avenue, 18th Floor
New York, NY 10022

In re Application of :
BUTLER *et al* :
U.S. Application No.: 10/558,665 :
PCT No.: PCT/GB2004/002359 :
Int. Filing Date: 02 June 2004 : **DECISION**
Priority Date: 02 June 2003 :
Attorney Docket No.: 102792-500/11261P1 US :
For: APPARATUS FOR EMITTING A :
CHEMICAL AGENT :

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 07 December 2006.

BACKGROUND

On 24 October 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 07 December 2006, applicants filed a response which was accompanied by, *inter alia*, the subject petition, a declaration signed by two of the three named inventors; and copies of letters, emails and mail receipts.

DISCUSSION

Petitioners claim that the nonsigning inventor, Christopher Smith, received a declaration and a copy of the patent application in the subject application and has refused to cooperate. As such, the 37 CFR 1.47(a) applicants filed the subject petition in response to the Form PCT/DO/EO/905 mailed 14 February 2006.

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

Concerning item (1), the petition fee of $200.00 and surcharge fee of $130.00 has been charged to Deposit Account No. 14-1263 as authorized.

With regards to item (3) and noting the facts in (2) below, the last known address of co-inventor Christopher Smith is currently listed as:

1 Clarence Mill
Bollington
Macclesfield SK10 5 GR
United Kingdom

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

Regarding item (2), applicants claim that documents including a complete copy of the patent application and declaration were received by the nonsigning inventor and his lack of response constitutes a refusal to cooperate. This would be sufficient evidence to show a refusal to cooperate.

However, it is not clear that the documents in question were received by the nonsigning inventor. The email sent 23 November 2006 clearly indicates that Mr. Smith does not live at the listed address and the FedEx documents were signed by an "A. Alton."

The 37 CFR 1.47(a) applicants must determine whether Mr. Smith has received the pertinent documents before claiming a refusal to cooperate. The procedures outlined in section 409.03(d) of the MPEP in situations where an inventor cannot be located should be followed if applicants are unable locate Mr. Smith. For these reasons, item (2) is not yet satisfied.

Thus, all of the requirements of 37 CFR 1.47(a) are not yet complete.

CONCLUSION

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

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

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

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08 MAY 2007

27389
NORRIS McLAUGHLIN & MARCUS PA
875 Third Avenue, 18th Floor
New York, NY 10022

In re Application of :
BUTLER *et al* :
U.S. Application No.: 10/558,665 :
PCT No.: PCT/GB2004/002359 :
Int. Filing Date: 02 June 2004 : **DECISION**
Priority Date: 02 June 2003 :
Attorney Docket No.: 102792-500/11261P1 US :
For: APPARATUS FOR EMITTING A :
CHEMICAL AGENT :

This decision is in response to applicants' renewed petition under 37 CFR 1.47(a) filed 02 April 2007.

BACKGROUND

On 03 January 2007, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 02 April 2007, applicants filed the renewed petition which was accompanied by, *inter alia*, a one-month extension of time and fee, an affidavit of Yuanita Field and other documentary evidence.

DISCUSSION

The initial petition filed 07 December 2006 was dismissed as there was no evidence that Mr. Smith received the pertinent documents to claim a refusal to cooperate. All other requirements were satisfied.

In the renewed petition, the 37 CFR 1.47(a) applicants now claim that the nonsigning inventor cannot be located. Petitioners' burden in showing that an inventor cannot be located is explained in section 409.03(d) of the MPEP which states, in part:

> Where inability to find or reach a nonsigning inventor 'after diligent effort' is the reason for filing under 37 CFR 1.47, an affidavit or declaration of the 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 . . .

In this case, petitioners have submitted a declaration by Yuanita Field who details the steps taken to locate the whereabouts of the nonsigning inventor. These steps included contacting his former employer. Petitioners also submitted evidence of an email from Mr. Jim Reeder verifying that Mr. Smith no longer lives at the address on record. However, petitioners must also submit evidence that a search to locate Mr. Smith was performed. This is required to meet the 'diligent effort' standard outlined above. Documentary evidence of such an internet or telephone records search is also required to be submitted with the renewed petition.

For this reason, item (2) of 37 CFR 1.47(a) is not yet satisfied.

CONCLUSION

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

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

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

24 JUL 2007

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Alexandria, VA 22313-1450
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27389
NORRIS McLAUGHLIN & MARCUS PA
875 Third Avenue, 18th Floor
New York, NY 10022

In re Application of :
BUTLER *et al* :
U.S. Application No.: 10/558,665 :
PCT No.: PCT/GB2004/002359 :
Int. Filing Date: 02 June 2004 : **DECISION**
Priority Date: 02 June 2003 :
Attorney Docket No.: 102792-500/11261P1 US :
For: APPARATUS FOR EMITTING A :
CHEMICAL AGENT :

This decision is in response to applicants' second renewed petition under 37 CFR 1.47(a) filed 29 June 2007.

BACKGROUND

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

On 29 June 2007, applicants filed the renewed petition which was accompanied by, *inter alia*, documentary evidence of internet searches for the missing inventor.

DISCUSSION

Applicants' prior petition was dismissed as no evidence was submitted showing that a search for Mr. Smith was performed. Applicants were requested to make such a search and provide documentary evidence of the results.

In the renewed petition filed 29 June 2007, applicants have provided evidence that a search to locate Mr. Smith was performed. The 37 CFR 1.47(a) applicants also provided the requisite documentary evidence of several on-line searches made for Christopher Smith. As applicants point out, the name of the missing inventor is so common that it is impossible to differentiate the positive hits received in the search. This is sufficient to show that a diligent effort was made to locate Mr. Smith.

Item (2) of 37 CFR 1.47(a) is now satisfied.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

10/558,665

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 02 June 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 07 December 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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Hisanobu Suzuki	: DECISION ON REQUEST FOR
Patent Number	: 7665297	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/558,681	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1079** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 06/18/2010

Applicant	: Toshio Goto	: DECISION ON REQUEST FOR
Patent Number	: 7632379	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/558,692	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **934** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of :
MEINHERZ, Manfred :
Application No. 10/558,745 :
Filed: December 1, 2005 :
Attorney Docket No. **2003P07804** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

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

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER, LLP** has been revoked by the assignee of the patent application on August 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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United States Patent and Trademark Office
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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

COPY MAILED

AUG 0 7 2007

OFFICE OF PETITIONS

In re Application of :
DAMBIETZ, Hans-Peter et al. :
Application No. 10/558,746 : DECISION ON PETITION
Filed: December 01, 2005 : TO WITHDRAW
Attorney Docket No. **449122084400** : FROM RECORD

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

The request is **APPROVED**.

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

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

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

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **HANS-PETER DAMBIETZ**
GLIENSTEIG 1
BERLIN, 13589
GERMANY

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

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/558,746	12/01/2005	Hans-Peter Dambietz	449122085300

CONFIRMATION NO. 8357

OC000000025210586

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

Date Mailed: 08/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/28/2007.

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

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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SUITE 400
MCLEAN, VA 22102

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AUG 0 7 2007

OFFICE OF PETITIONS

In re Application of :

MEINHERZ, Manfred :
Application No. 10/558,747 : DECISION ON PETITION
Filed: December 01, 2005 : TO WITHDRAW
Attorney Docket No. **449122085200** : FROM RECORD

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

The request is **APPROVED**.

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

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

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

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **MANFRED MEINHERZ**
FORSTSTRASSE 45
BERLIN, 13467
GERMANY

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

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/558,747	12/01/2005	Manfred Meinherz	449122085200

CONFIRMATION NO. 7054

OC000000025210889

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

Date Mailed: 08/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/28/2007.

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

Michelle L. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
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Slater & Matsil, L.L.P.
17950 Preston Road, Suite 1000
Dallas, TX 75252

Mail Date: 04/26/2010

Applicant	: Fuyou Miao	: DECISION ON REQUEST FOR
Patent Number	: 7653933	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/558,751	: 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 **877** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
IKEDA, WATARU, et al.
Application No. 10/558,766
Filed: November 22, 2006
For: **PLAYBACK APPARATUS, PROGRAM AND PLAYBACK METHOD**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed March 20, 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.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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FOX ROTHSCHILD LLP
997 Lenox Drive
Building 3
Lawrenceville NJ 08648

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JAN 15 2010

In re Application of :
Forbes Holten Norris III :
Application No. 10/558,773 :
Filed: December 2, 2005 :
Attorney Docket No. 5697-102US/P29,051 A USA :

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 24, 2009.

The request is **APPROVED**.

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

The request was signed by Richard C. Woodbridge on behalf of all attorneys of record who are associated with customer No. 20802.

All attorneys/agents associated with the Customer Number 20802 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record remains unchanged.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Richard C. Woodbridge
P.O. Box 592
112 Nassau Street
Princeton, NJ 08542-0592

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GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS, TX 75201-4761

Mail Date: 04/21/2010

Applicant	: Egon Forster	: DECISION ON REQUEST FOR
Patent Number	: 7622062	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/558,783	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **895** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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300 S. WACKER DR.
25TH FLOOR
CHICAGO IL 60606

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MAR 25 2009

OFFICE OF PETITIONS

In re Application of
Matthias Jochem et al
Application No. 10/558,794
Filed: November 28, 2005
Attorney Docket No. 4442.75819

DECISION ON PETITION

This is a decision on the petition, filed February 20, 2009, which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of July 30, 2008.

Petitioner states that a timely reply was received by the USPTO on August 27, 2008.

A review of the Office records indicates that a reply was timely received on August 27, 2008, but coded in incorrectly. Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of July 30, 2008 is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 3743 for appropriate action in the normal course of business on the reply received August 27, 2008.

Karen Creasy
Petitions Examiner
Office of Petitions

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Rutan & Tucker, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

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OCT 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Terri Lee Holcomb-Halstead, et al.	:	
Application No. 10/558,795	:	DECISION ON PETITION
Filed: August 8, 2006	:	TO WITHDRAW
Attorney Docket No. 100657.0016US1	:	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 18, 2008.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***attorney and agents left this customer number 3/3/07. It was agreed that attorney or his agents would file new powers of attorney for requested client transfers. Attorney has not filed a new power of attorney or has not changed their correspondence address. Therefore, we request withdrawal as power of attorney, and that the correspondence address be changed***, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Robert Fish**
Fish & Associates, PC
2603 Main Street, Suite 1050
Irvine, CA 92614

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611 Anton Blvd.
Suite 1400
Costa Mesa, CA 92626

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OFFICE OF PETITIONS

In re Application of	:	
Terri Lee Holcomb-Halstead, et al.	:	
Application No. 10/558,795	:	DECISION ON PETITION
Filed: August 8, 2006	:	TO WITHDRAW
Attorney Docket No. 100657.0016US1	:	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 November 3, 2008.

The request is **APPROVED**.

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

The request was signed by Todd W. Wight 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 an outstanding Office action mailed September 17, 2008 that requires a reply from the applicant.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Terri Lee Holcomb-Halstead**
21758 Walnut Avenue
Grand Terrace, CA 92313

cc: **Robert Fish**
Fish & Associates, PC
2603 Main Street, Suite 1050
Irvine, CA 92614

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/558,795	08/08/2006	Terri Lee Holcomb-Halstead	100657.0016US1

CONFIRMATION NO. 8192

POWER OF ATTORNEY NOTICE

34284
Rutan & Tucker, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

OC000000033075201

Date Mailed: 11/13/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/03/2008.

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

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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25 JUL 2006

Allen J. Hoover
Wood, Phillips, Katz, Clark & Mortimer
500 West Madison Street - Suite 3800
Chicago, Illinois 60661

In re Application of	:	
KELLY	:	
U.S. Application No.: 10/558,797	:	DECISION ON PETITION
PCT No.: PCT/GB04/01843	:	
Int. Filing Date: 28 April 2004	:	UNDER 37 CFR 1.137(b)
Priority Date: 01 May 2003	:	
Attorney Docket No.: MAR10200P00020US	:	
For: A CABLE CONTAINMENT SYSTEM	:	

The petition to revive under 37 CFR 1.137(b) filed 29 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 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a compliant, executed oath or declaration of the 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/558,802	03/03/2006	Hideki Sekiguchi	112857-481	6948

29175 7590 01/17/2008
BELL, BOYD & LLOYD, LLP
P. O. BOX 1135
CHICAGO, IL 60690

EXAMINER	
NILAND, PATRICK DENNIS	
ART UNIT	PAPER NUMBER
1796	
MAIL DATE	DELIVERY MODE
01/17/2008	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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/558,802	03/03/2006	Hideki Sekiguchi	112857-481	6948

7590 01/17/2008

BELL, BOYD & LLOYD, LLP
P. O. BOX 1135
CHICAGO, IL 60690

EXAMINER	
NILAND, PATRICK DENNIS	

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
01/17/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

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

Ricardo Ramos
Patent Publication Branch
Office of Data Management

Adjustment date: 01/17/2008 RCLEMONS
03/08/2006 LLANDGRA 00000005 10558802
01 FC:1617 -130.00 OP

Adjustment date: 01/17/2008 RCLEMONS
12/07/2005 ATRAN1 00000025 10558802
01 FC:1631 -300.00 OP

02 FC:1633 -200.00 OP

03 FC:1642 -400.00 OP

Notice of Abandonment	Application No.	Applicant(s)	
	10/558,802	SEKIGUCHI ET AL.	
	Examiner	Art Unit	
	Niland, Patrick	1796	

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

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☑ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

Rick Clemons □□Administrative Assistant□□Art Unit: 3900

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE NW, SUITE 800
WASHINGTON, DC 20037

COPY MAILED

MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Caominh **TA, et al.** :
Application No. 10/558,824 : DECISION GRANTING PETITION
Filed: November 29, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **Q91496** :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 15, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3661 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Harvey B. Jacobson, Jr.
Signature

July 16, 2008
Date

Harvey B. Jacobson, Jr.
Typed or printed name

20,851
Registration Number, if applicable

400 Seventh Street, N.W.
Address

202-638-6666
Telephone Number

Washington, D.C. 20004
Address

Enclosures: ☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date

Signature

Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

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

25 OCT 2006

Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N W
Washington DC 20036

In re Application of	:	
XU et al.	:	
Application No.: 10/558,829	:	DECISION ON
PCT No.: PCT/CN2004/000562	:	
Int. Filing Date: 28 May 2004	:	PETITION UNDER
Priority Date: 28 May 2003	:	
Attorney Docket No.: 56815.0600	:	37 CFR 1.137(b)
For: METHOD AND APPARATUS FOR PRECISE FIRST-PATH DETECTION IN CDMA MOBILE COMMUNICATION SYSTEM	:	

This decision is in response to applicant's submission filed 29 November 2005.

BACKGROUND

On 28 May 2004, applicants filed international application PCT/CN2004/000562 which designated the U.S. and claimed a priority date of 28 May 2003. A copy of the international application was communicated to the 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 28 November 2005.

On 29 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 and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 29 November 2005.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Slater & Matsil, L.L.P.
17950 Preston Road, Suite 1000
Dallas, TX 75252

Mail Date: 04/26/2010

Applicant	: Bin Xu	: DECISION ON REQUEST FOR
Patent Number	: 7646750	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/558,829	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **653** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Ping Liu	: DECISION ON REQUEST FOR
Patent Number	: 7623010	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/558,844	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/05/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **278** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 10036-8403

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JAN 11 2010

OFFICE OF PETITIONS

In re Application of
Hans-Erik Hansson, et al.
Application No.: 10/558,849
Filed: November 30, 2005
Attorney Docket No.: P/1830-18

ON PETITION

This is a decision on the petition, filed December 31, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

The application is being referred to Technology Center AU 3741 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

25 JUN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LICATA & TYRRELL P.C.
66 E. MAIN STREET
MARLTON NJ 08053

In re Application of	:	
MACINA et al.	:	
Application No.: 10/558,861	:	DECISION
PCT No.: PCT/US2004/017156	:	
Int. Filing Date: 01 June 2004	:	
Priority Date: 30 May 2003	:	
Attorney Docket No.: DEX0487US.NP	:	
For: COMPOSITIONS, SPLICE VARIANTS AND METHODS RELATING TO OVARIAN SPECIFIC NUCLEIC ACIDS AND PROTEINS	:	

This decision is in response to applicant's "REQUEST FOR REFUND" filed in the United States Patent and Trademark Office (USPTO) on 27 December 2006.

BACKGROUND

On 01 June 2004, applicant filed international application PCT/US2004/017156, which designated the U.S. and claimed a priority date of 30 May 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 24 February 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 November 2005.

On 30 November 2005, applicant filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an authorization to charge any additional fees which may be required to Deposit Account 50-1619.

On 27 December 2006, applicant filed the instant "REQUEST FOR REFUND".

On 13 April 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495, according the application a 35 U.S.C. 371 date of 20 November 2006.

DISCUSSION

The request for refund requests a refund of the fees charged to Deposit Account 50-1619 on 01 November 2006. A review of the application file indicates that this charge was made in

error. The $1,500 charged on this date for three hundred sheets in excess of 100 has been credited to Deposit Account 50-1619.

CONCLUSION

The request for refund under 37 CFR 1.26 is **GRANTED** for the reasons set forth above.

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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OFFICE OF PETITIONS

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

In re Application of :
KOPCHICK, John J. et al. :
Application No. 10/558,877 : DECISION ON PETITION
Filed: September 26, 2006 : TO WITHDRAW
Attorney Docket No. **KOPCHICK7A** : 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 01, 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).

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

The request was signed by Iver Cooper on behalf of all attorneys of record who are associated.
All attorneys/agents associated with the have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROBERT MALOTT**
OHIO UNIVERSITY
TECHNOLOGY TRANSFER OFFICE
340 WEST STATE STREET – UNIT 14
ATHENS, OH 45701

20 NOV 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

In re Application of
PETER TIEMANN
Application No.: 10/558,893
PCT No.: PCT/EP04/04442
Int. Filing Date: 27 April 2004
Priority Date: 30 May 2003
Attorney's Docket No.: 2003P06127WOUS
For: COMBUSTION CHAMBER

DECISION

ON PETITION UNDER

37 CFR 1.43

This decision is in response to applicant's response to the Notification of Missing Requirements, treated as a Petition under 37 CFR 1.43 filed in the United States Patent and Trademark Office (USPTO) on 13 October 2006.

BACKGROUND

On 27 April 2004, applicant filed international application PCT/EP04/04442, 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 (USPTO) from the International Bureau on 09 December 2004.

On 30 November 2005, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 14 August 2006, a Notification of Missing Requirements was mailed indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) was required. On 13 October 2006, applicant filed a response along with a declaration executed by Iris Otlmanns on behalf of herself and as legal representative for inventor Peter Tiemann. The response is treated as a petition under 37 CFR 1.43.

DISCUSSION

The oath or declaration for entry into the national stage in the United States must comply with 37 CFR 1.497(a)-(b). The 13 October 2006 submission indicates that Peter Tiemann is legally incapacitated and that Iris Oltmanns has been appointed his legal representative.

Under 37 CFR 1.43, in the event of legal incapacitation of an inventor, "the legal representative ... of such inventor may make the necessary oath or declaration, and apply for and obtain the patent." The 13 October 2006 declaration identifies Iris Oltmanns as the Legal Representative and provides her residence, citizenship and address in addition to Mr. Tiemann's residence, citizenship and address. The 13 October 2006 declaration complies with 37 CFR 1.497(a)-(b).

CONCLUSION

Applicant's request for status under 37 CFR 1.43 is **GRANTED**.

The application has an international filing date of 27 April 2004 under 35 U.S.C. §363 and a date of 13 October 2006 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4).

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

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

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

11/20/2006 SBASHEIR 00000002 192179 10558893
Sale Ref: 00000002 DA#: 192179 10558893
01 FC:1617 130.00 DA

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OCT 22 2007

OFFICE OF PETITIONS

In re Application of :
Faqiang Qian, et al. :
Application No. 10/558,900 : DECISION ON PETITION
Filed: December 2, 2005 : TO WITHDRAW
Attorney Docket No. 449122085600 : 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 **DSIMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on August 7, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/558,900	12/02/2005	Faqiang Qian	449122085600

CONFIRMATION NO. 6114

OC000000026255808

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

Date Mailed: 10/11/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/07/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/558,902	12/01/2005	Michael Horstmann	512100-2050	6032

7590 09/28/2009

William F Lawrence
Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

EXAMINER
ROGERS, MARTIN K

ART UNIT	PAPER NUMBER
1791	

MAIL DATE	DELIVERY MODE
09/28/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: SEP 18 2009

In re application of
Horstmann
Serial No. 10/558,902
Filed: December 01, 2005
For: DIRECT COATING METHOD

DECISION ON
PETITION

This is a decision on the PETITION UNDER 37 CFR 1.144 REQUESTING WITHDRAWAL OF THE RESTRICTION REQUIREMENT made final in the office action mailed April 28, 2009.

On October 28, 2008, the examiner made a restriction requirement under 35 USC 121 and 372 based upon a finding that the claims lack unity of invention as defined in PCT Rules 13.1 and 13.2. In a response to the requirement filed on January 28, 2009 Applicant traversed the requirement. The examiner maintained the restriction requirement in an office action mailed on April 28, 2009 and made the requirement final.

The instant petition was filed on July 30, 2009 requesting that the requirement for restriction be withdrawn. Petitioner argues that the claims have unity of invention because "each of the inventions are ultimately tied to each of the limitations of claim 9" and the Brown reference, used by the examiner to support the holding of lack of unity of inventions, was withdrawn as a rejection of record in the final office action of April 28, 2009. Additionally, Petitioner argues that the holding of lack of unity of inventions is prohibited because no requirement was made in the international search report.

DECISION

The instant application has been filed under 35 USC. 371 as a national phase application of PCT/EP04/04792 and as such is subject to the unity requirements set out in PCT Rules 13.1 – 13.4 and 37 CFR 1.475, as well as the PCT Administrative Instructions, Annex B. MPEP 1893.03(d) permits groupings of claims which are linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding technical feature.

The PCT Administrative Instructions, Annex B, Part 1 at (b) state that "the special technical features" common to all groupings of inventions shall be defined, as in PCT Rule 13.2, to mean,

"those technical features which each of the claimed inventions, considered as a whole, makes over the prior art."

While the apparatus of claim 9 does reference the method of claim 1, it is not a dependent claim for unity of invention purposes. As set forth in paragraph 10.06 of the PCT INTERNATIONAL SEARCH AND PRELIMINARY EXAMINATION GUIDELINES, a claim referring to a claim of a different category of invention is not considered a dependent claim. Claims drawn to different category of inventions may lack unity of inventions even when they share common technical features, when the share common technical feature do not make a contribution over the prior art.

In the office action mailed October 28, 2008, the examiner took the position that the common special technical feature did not make a contribution over the prior art in view of the reference to Brown. In the response to the office action, Applicant amended the claims and argued that the rejection over the Brown reference was no longer applicable. It was also argued that because the claims had been amended to overcome Brown the holding of lack of unity was also no longer appropriate. The examiner withdrew the rejection over Brown but held that claim 1 was obvious in view of the combined teachings of Leung et al., Wadzinski and Kling. Moreover, the examiner noted that withdrawn claim 9 is anticipated by Wadzinski. Accordingly, the examiner has clearly shown that the shared technical features between claim 1 and claim 9 do not make a contribution over the prior art. Thus, unity of inventions is lacking under PCT Rule 13.2.

Regarding the argument that lack of unity of inventions cannot be made in the present application, because the international searching authority did not hold lack of unity of inventions in the international search report, the Petitioner has misinterpreted WIPO Document PCT/A/XVIII/9 (item 25). Item 25 states "[i]t was agreed by the Assembly that unity of invention provisions of Rule 13 governed the practice to be followed in processing international applications during both the international phase before the international authorities and the national phase before the designated and elected Offices." This is the basis for why the USPTO applies the unity of inventions standard to the restriction requirements in 35 USC 371 filings. The opinions and holdings in the international stage are not binding in the national stage prosecution.

The petition to withdraw the restriction requirement is **DENIED.**

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

William F. Lawrence
Frommer Lawrence & Haug LLP
745 Fifth Avenue
New York, NY 10151

UNITED STATES PATENT AND TRADEMARK OFFICE

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

18 SEP 2007

NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

In re Application of :
KLEBE, et al. : DECISION ON PETITION
Application No.: 10/558,916 :
PCT No.: PCT/US04/16828 : UNDER 37 CFR 1.47(b)
Int. Filing Date: 28 May 2004 :
Priority Date: 30 May 2003 :
Atty Docket No.: 21105.0003U2 :
For: MICROPOSITIONING CELLS FOR TISSUE ENGINEERING :

This decision is in response to the "Petition Under 37 C.F.R. 1.47(b)" filed 05 February 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 May 2004, applicant filed international application PCT/US04/16828, which claimed a priority date of 30 May 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, 30 November 2005.

On 30 November 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee and a first preliminary amendment.

On 27 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 February 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, 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 all six items.

As to item (1), applicant is advised that the petition fee for proceeding pursuant to 37 CFR 1.47 is $200.00. The $70.00 shortfall will be charged to deposit account number 14-0629 as authorized.

Regarding item (2), applicant has provided evidence that complete sets of the application papers were mailed to the inventors and to date executed oaths or declarations have not been returned.

As to item (3), applicant has supplied the last known addresses of the non-signing inventors.

Regarding item (4), applicant has filed a declaration executed by Mr. Barry D. Burgdorf, Vice Chancellor of the Board of Regents, The University of Texas. The declaration complies with 37 CFR 1.497(a)-(b).

As to item (5), applicant has provided evidence that the inventors agreed in writing to assign the present invention to the University of Texas. Specifically, the inventors executed an invention report form indicating that all of the work was performed at the university using university equipment. Thus, pursuant to the provided "Rules and Regulations of the Board of Regents of the University of Texas System" the inventors had agreed that the above-captioned invention was the intellectual property of the university and that they were obligated to assign the invention to the university.

Regarding item (6), applicant has shown that the granting of the present petition is necessary to preserve the rights of the parties or to prevent irreparable damages.

As such, it is proper to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(b) is **GRANTED**.

The application has an international filing date of 10 November 2003 under 35 U.S.C. 363, and will be given a date of **05 February 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 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

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KILYK & BOWERSOX, PLLC
400 HOLIDAY COURT
SUITE 102
WARRENTON, VA 20186

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JUN 26 2008

OFFICE OF PETITIONS

Applicant: Luo et al.
Appl. No.: 10/558,920
International Filing Date: June 2, 2004
Title: RECYCLING PROCESS FOR DEMETALIZATION OF HYDROCARBON OIL
Attorney Docket No.: 3120-002
Pub. No.: 2007/0062849 A1
Pub. Date: March 22, 2007

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), received on May 21, 2007, December 3, 2007 and supplemented on March 19, 2008 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

It would greatly benefit the Office if the request for corrected publication pointed out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dr. William T. Ralston
Kirton & McConkie
60 East South Temple- Suite 1800
Salt Lake City, UT 84111

Mail Date: 04/22/2010

Applicant	: Behrouz Farhang-Boroujeny	: DECISION ON REQUEST FOR
Patent Number	: 7634012	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/558,929	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1005** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FLYNN THIEL BOUTELL & TANIS, P.C.
2026 RAMBLING ROAD
KALAMAZOO MI 49008-1631

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MAY 0 5 2008

OFFICE OF PETITIONS

In re Application of :
FURUTA, SATOSHI :
Application No. 10/558,935 : DECISION ON PETITION
Filed: 12/01/2005 :
Attorney Docket No. 4700.P0320US :

This is a decision on the petition under 37 CFR 1.181, filed March 24, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is GRANTED.

On July 26, 2007, the Office mailed a final Office action, which set a three-month shortened statutory period for reply. Extensions of time were permitted under the provisions of 37 CFR 1.136(a). On October 22, 2007, petitioner filed an amendment in response to the final Office action. However, the examiner determined that the amendment did not place the application in condition for allowance and mailed an Advisory Action on November 29, 2007.

On December 26, 2007, petitioners submitted a Request for Continued Examination (RCE), a request for an extension of time for response within the second month, and the requisite fee. On January 24, 2008, petitioners filed a submission under 37 CFR 1.114 in the form of an "Amendment Before First Office Action." On February 20, 2008, the Office mailed a Notice of Improper Request for Continued Examination, stating that the RCE was not accompanied by a submission as required by 37 CFR 1.114 and that the time period set forth in the final Office action continued to run from the mailing date of that action.

On March 14, 2007, the Office mailed a Notice of Abandonment. In response, on March 24, 2008, petitioner filed the present petition. Petitioners assert they filed a complete and timely reply to the final Office action. Specifically, petitioners aver that they submitted an "Amendment Before First Office Action," in compliance with the submission requirement under 37 CFR 1.114, to complete the filing requirements for the RCE. Petitioners argue

that the amendment corresponding to the submission requirement under 37 CFR 1.114 was filed on January 24, 2008, within the six-month statutory period for reply, and therefore, corrected the improper RCE filing.

A review of the file reveals that the USPTO received the Amendment, which included a certificate of mailing date of January 22, 2008. Additionally, petitioners previously filed a general authorization to charge any fees to the Deposit Account. Accordingly, the Amendment is considered timely filed on January 22, 2008, with an extension of time for response within the third month. See 37 CFR 1.8(a) and 1.136(a).

The petition under 37 CFR 1.181 is granted. The holding of abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a response was timely submitted.

As an extension of time for response within the third month is necessary, the Office will charge the $1050.00 three-month extension of time fee and refund the $460.00 two-month extension of time fee to the Deposit Account.

The matter is being referred to Technology Center Art Unit 1621 for a review of the reply filed on January 24, 2008 (certificate of mailing dated January 22, 2008).

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination procedures should be directed to the Technology Center.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

13 JAN 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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07278
DARBY & DARBY P.C.
P.O. Box 770
Church Street Station
New York, NY 10008-0770

In re Application of :
LOEFFLER *et al* :
Application No.: 10/558,965 :
PCT No.: PCT/US2004/016978 :
Int. Filing Date: 27 May 2004 : **DECISION**
Priority Date: 30 May 2003 :
Attorney Docket No.: 04107/100M516-US1 :
For: METHODS AND REAGENTS FOR :
QUANTITATIVE ANALYSIS OF :
DEHALOCOCCOIDES SPECIES :

The petition for a corrected filing receipt filed 08 March 2007 and again on 19 July 2007 2008 is treated under 37 CFR 1.181 and hereby **GRANTED** as follows:

The Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) and filing receipt mailed 05 February 2007 recorded the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and "Filing or 371(c) Date" as 30 November 2005. A review of the application shows that the declaration and surcharge fee were submitted on 22 December 2005.

It appears that the Office erroneously stamped the declaration as received on 30 November 2005. However, the postcard receipt, USPTO financial records and applicant's "Certificate of Express Mailing Under 37 CFR 1.10" located in the application show that the declaration and surcharge fee were filed 22 December 2005.

The Form PCT/DO/EO/903 and filing receipt both contain erroneous information and are hereby **VACATED**. This application is being forwarded to the DO/EO/US to mail a corrected Form PCT/DO/EO/903 and filing receipt indicating the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and "Filing or 371(c) Date" of 22 December 2005.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/04/09

TO SPE OF : ART UNIT 2863

SUBJECT : Request for Certificate of Correction for Appl. No.: 10558967 Patent No.: 7444265 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: ck

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

9/4/09

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30 NOV 2006

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

In re Application of
GRUBB, et al.
Application No.: 10/558,982
PCT No.: PCT/US04/05601
Int. Filing Date: 25 February 2004
Priority Date: 25 February 2003
Attorney Docket No.: 02-360-US2
For: FIXED IDC OPERATION OF FUEL CELL POWER PLANT

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 30 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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August 26, 2009

Stephen G. Rudisill
Nixon Peabody LLP
300 South Riverside Plaza, 16th Floor
Chicago, IL 60606

Patent No.: 7,557,977 B2
Application No.: 10/558,988
Inventor (s): Ram Oron, et al.
Issued: July 7, 2009
Title: **LASER PULSE GENERATOR**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A certificate of correction will be issued to correct the remaining errors mentioned in your request.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 756-1591

vt

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OFFICE OF PETITIONS

NIXON PEABODY, LLP
300 S. RIVERSIDE PLAZA
16TH FLOOR
CHICAGO, IL 60606

In re Patent No. 7,557,977 :
Issue Date: July 7, 2009 :
Application No. 10/558,988 : ON PETITION
Filed: December 1, 2005 :
Attorney Docket No. 55219-00011USPX :

This is a decision on the petition filed September 9, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

Docket No. 255219-000011USPX
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of: Ram Oron et al.	Customer No. 70001
Patent No. 7,557,977 B2	Confirmation No. 8277
Issued: July 7, 2009	Art Unit: 2873
For: LASER PULSE GENERATOR	Examiner: James Jones

PETITION PURSUANT TO 37 C.F.R. §3.81(b)

Office of Petitions – via EFS
COMMISSIONER FOR PATENTS
Alexandria, Virginia 22313-1450

Dear Commissioner:

Applicant hereby petitions the Commissioner, under 37 C.F.R. §3.81(b), to allow the patentee to add the assignee name of "KiloLambda Technologies, Ltd." This error arose from the inadvertent omission of the assignee on the Issue Fee Transmittal (PTOL-85B).

As evidenced by the attached Notice of Recordation of Assignment Document (Exhibit 1), the name of the assignee of the above-identified patent is KiloLambda Technologies, Ltd. by virtue of the assignment document that was filed and recorded before the issuance of the above-identified patent. This assignment was recorded on January 24, 2006 on reel/frame 017209/0357.

Adjustment date: 11/12/2009 CKHLOK
09/09/2009 INTEFSW 00000009 504181 10558988
01 FC:1464 130.00 CK

11/12/2009 CKHLOK 00000004 504181 7557977
01 FC:1808 130.00 DA

A request for Certificate of Correction pursuant to 37 C.F.R. §1.323 was filed on August 19, 2009 along with the requisite fee of $100.00. Please forward the file to the Certificates of Correction Branch, for issuance of a Certificate of Correction, once this Request is granted.

The Commissioner is hereby authorized to charge the $130.00 fee under 37 C.F.R. §1.117 and any payment deficiency or to credit any overpayment to Deposit Account No. 50-4181 referring to Attorney Docket No. 255219-000011USPX. The Patentees respectfully solicit the granting of the requested Petition.

Respectfully submitted,

Date: September 9, 2009

/Stephen G. Rudisill – Reg. No. 20087
Stephen G. Rudisill
NIXON PEABODY LLP
300 South Riverside Plaza, 16th Floor
Chicago, Illinois 60606
(312) 425-3900 – main
(312) 425-3909 – facsimile

ATTORNEY FOR PATENTEE

UNITED STATES PATENT AND TRADEMARK OFFICE

23 OCT 2009

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

In re Application of BAKER et al	:	
U.S. Application No.: 10/558,998	:	
PCT Application No.: PCT/IB2004/050804	:	DECISION
Int. Filing Date: 28 May 2004	:	
Priority Date Claimed: 03 June 2003	:	
Attorney Docket No.: NL030635US1	:	
For: SECURE CARD TERMINAL	:	

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 August 2009.

BACKGROUND

On 28 May 2004, applicant filed international application PCT/IB2004/050804, which claimed priority of an earlier European Patent Office application filed 03 June 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 09 December 2004. The thirty-month period for paying the basic national fee in the United States expired on 03 December 2005.

On 30 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 23 October 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 21 December 2006, applicant filed an executed declaration.

On 20 February 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that a newly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 21 March 2007, international application PCT/IB2004/050804 became abandoned as to the United States for failure to timely respond to the Notification of Defective Response.

On 24 July 2009, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909).

On 17 August 2009, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

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

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 28 May 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 17 August 2009.

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

15 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Jones Day
Fiftieth Floor
555 South Flower Street
Los Angeles, CA 90071

In re Application of	:	
PLUSCHKE et al.	:	
Application No.: 10/559,010	:	DECISION ON PETITION
PCT No.: PCT/EP04/05952	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 02 June 2004	:	
Priority Date: 02 June 2003	:	
Attorney Docket No.: 126442-100013	:	
For: METHODS FOR SYNTHESIZING CONFORMATIONALLY PEPTIDES, PEPTIDOMETICS AND THE USE THEREOF. . .	:	

The petition to revive under 37 CFR 1.137(b) filed 20 March 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 applicants has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-25-08 Paper No.: _____

TO SPE OF : ART UNIT 2837

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/559015 Patent No.: 7391180

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

E. James

Certificates of Correction Branch

703-308-9390 ext. _____

Should drawings be entered as requested?

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**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-25-08 Paper No.: _____

TO SPE OF : ART UNIT 2837

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/559015 Patent No.: 7391180

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

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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.

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

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

E. James
Certificates of Correction Branch
703-308-9390 ext. _____

Should drawings be entered as requested?

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: _____

/Walter Benson/
SPE

2837
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

11 JUL 2008

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

BELL, BOYD & LLOYD, LLP
P.O. BOX 1135
CHICAGO IL 60690

In re Application of :
JARCZYK :
Application No.: 10/559,017 : DECISION ON PETITION
PCT No.: PCT/DE03/04050 :
Int. Filing Date: 09 December 2003 : UNDER 37 CFR 1.10(c)
Priority Date: 28 May 2003 :
Atty. Docket No.: 112740-1111 :
For: METHOD FOR REPRESENTING A GRAPHICAL :
OBJECT AND COMMUNICATION DEVICE :

This is a decision on applicant's "Petition For Correction of Filing Receipt Under 37 CFR 1.10(c)" filed 21 November 2007 in the United States Patent and Trademark Office (USPTO) seeking a new official filing receipt and Notice of Acceptance (Form PCT/DO/EO/903). No petition fee is required.

BACKGROUND

On 09 December 2003, applicant filed international application PCT/DE03/04050 which claimed priority to an earlier application filed 28 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 23 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 28 May 2005.

On 28 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 English translation of the international application; an executed declaration of the inventor; and Information Disclosure Statement and a substitute specification.

On 08 March 2006, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 371 date of 29 November 2005.

On 21 November 2007, applicant filed the present petition and request for corrected filing receipt indicating that the papers at issue, satisfying the 35 U.S.C. 371 requirements, were filed 28 November 2005.

DISCUSSION

37 CFR 1.10(c) states: Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

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

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

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

Applicant has satisfied all three items above.

CONCLUSION

Applicant's petition under 37 CFR 1.10(c) is **GRANTED**.

The application will be given an international filing date of 09 December 2003 under 35 U.S.C. 363 and a date of **28 November 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) mailed 08 March 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 detailed above.

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

09 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ignacio Borras Llompart
Roger de Flor 48
E-07470,Puerto de Pollensa
Baleares, Espana

In re Application of
BORRAS LLOMPART, Ignacio
Serial No.: 10/559,051
PCT No.: PCT/ES04/00094
Int. Filing Date: 26 February 2004
Priority Date: 27 February 2003
Atty. Docket No.: N/A
For: BALANCE OF FORCES SYSTEM ACTING UPON A HERMETICALLY-SEALED CONTAINER SHIP WHICH IS SINKING IN A LIQUID

DECISION ON PETITION

This decision is in response to applicant's Petition to Revive an Unintentionally Abandoned Application under 37 CFR 1.137(b) filed on 01 December 2005.

BACKGROUND

On 26 February 2004, applicant filed international application no. PCT/ES04/00094 which claimed a priority date of 27 February 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 September 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 27 August 2005.

On 07 September 2005, applicant filed a transmittal letter (identifying PCT/ES04/00094) for entry into the national stage in the United States, which was accompanied by: the $300 filing fee; a transmittal letter for "Request for filing a Continuation or Division of an International Application"; and an English translation of the international application. These papers were assigned U.S. application number 11/226,191. It is noted that application no. 11/226,191 will be treated as a filing under 35 U.S.C. 111(a), not 35 U.S.C. 371. The submission of a transmittal letter for a "Request for filing a Continuation or Division of an International Application" is inconsistent with an intent to enter the national stage of the PCT under 35 U.S.C. 371. (See section 1893.03(a), page 1800-191 of the Manuel of Patent Examining Procedure.) Further, applicant has not properly claimed benefit of the international application in accordance with 35 U.S.C. 120 and 37 CFR 1.78(a) and, application no. 11/226,191 cannot be considered as a continuing application of PCT/ES04/00094.

On 01 December 2005, applicant filed a transmittal letter (identifying PCT/ES04/00094) for entry into the national stage in the United States, which was accompanied by: Petition to Revive an Unintentionally Abandoned Application under 37 CFR 1.137(b); the requisite petition fee under 37 CFR 1.17(m); and an English translation of the international application. These papers were assigned U.S. application number 10/559,051 and were considered as the national stage filing of PCT/ES04/00094.

DISCUSSION

As stated above, the papers assigned U.S. application number 10/559,051 are considered as the national stage filing of PCT/ES04/00094. In order to revive the national stage filing of PCT/ES04/00094, applicant filed a petition to revive under 37 CFR 1.37(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). Items (2) through (4) have been satisfied.

With regard to Item (1), the proper response was the payment of the basic national fee of $150.00. Applicant states that the basic filing fee was paid on 16 September 2005. As noted above, these fees were placed in application no. 11/226,191. If applicant wants to transfer these fees to this application, a petition under 37 CFR 1.182 and the $400 petition is required. Alternatively, applicant may respond to this Decision with a Renewed Petition under 37 CFR 1.137(b) and the $150 basic national fee. Hence, the basic national fee has not been submitted for the above-identified application.

As to Item (2), the appropriate petition fee of $750.00 as required by 37 CFR 1.17(m) was submitted.

With regard to Item (3), applicant's statement that "entire delay in filing the 35 U.S.C. 371(c) requirement from their due date 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).

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

Because applicant has filed the application *pro se*, it is noted that while an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skillful preparation and prosecution. The Office cannot aid in selecting an attorney or agent. Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing

Office, Washington, DC 20402. Registered patent attorneys and agents are also listed on the Internet at *www.uspto.gov*.

CONCLUSION

The petition under 37 CFR 1.137(b) 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 and must include the $150 basic national fee. If the United States Patent and Trademark Office has misconstrued applicant's instructions, a statement of clarification may be provided. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

0 1 OCT 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Katten Muchin Rosenman LLP
575 Madison Avenue
New York, NY 10022-258

In re Application of
BORRAS LLOMPART, Ignacio
Serial No.: 10/559,051
PCT No.: PCT/ES04/00094
Int. Filing Date: 26 February 2004
Priority Date: 27 February 2003
Atty. Docket No.: N/A
For: BALANCE OF FORCES SYSTEM ACTING UPON A HERMETICALLY-SEALED CONTAINER SHIP WHICH IS SINKING IN A LIQUID

DECISION ON PETITION

This decision is in response to applicant's "Petition Pursuant to 37 CFR 1.137(b) to Revive PCT Application for Filing of Continuation Application" filed on 01 June 2006 which is being treated as a Renewed Petition under 37 CFR 1.137(b). Additionally, this decision is in response to applicant's "Supplemental Petition Pursuant to 37 CFR 1.137(b) to Revive PCT Application" filed 30 March 2007 and "Resubmission of Supplemental Petition" filed 25 June 2007.

BACKGROUND

On 26 February 2004, applicant filed international application no. PCT/ES04/00094 which claimed a priority date of 27 February 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 September 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 27 August 2005.

On 01 December 2005, applicant filed a transmittal letter (identifying PCT/ES04/00094) for entry into the national stage in the United States, which was accompanied by: Petition to Revive an Unintentionally Abandoned Application under 37 CFR 1.137(b); the requisite petition fee under 37 CFR 1.17(m); and an English translation of the international application. In a decision dated 09 May 2006, applicant's petition under 37 CFR 1.137(b) was dismissed without prejudice for failing to pay the basic national fee.

On 01 June 2006, applicant filed "Petition Pursuant to 37 CFR 1.137(b) to Revive PCT Application for Filing of Continuation Application."

On 30 March 2007, applicant filed "Supplemental Petition Pursuant to 37 CFR 1.137(b) to Revive PCT Application." (This petition was resubmitted by facsimile on 25 June 2007.) Applicant states in the present petition "that any reference to a 'continuation' application in the petition dated June 1, 2006 should be disregarded."

DISCUSSION

International application PCT/ES04/00094 became abandoned as to the United States of America at midnight on 27 August 2005 for failure to pay the basic national fee.
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).

With regard to Item (1), the proper response was the payment of the basic national fee of $150.00.

As to Item (2), the appropriate petition fee of $750.00 as required by 37 CFR 1.17(m) was submitted.

With regard to Item (3), applicant's statement that "entire delay in filing the 35 U.S.C. 371(c) requirement from their due date 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).

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

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 returned to the United States/Elected Office for processing in accordance with this decision.

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

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

Panitch Schwarze Belisario & Nadel LLP
PANASONIC
ONE COMMERCE SQUARE
2005 MARKET STREET SUITE 2200
PHILADELPHIA, PA 19103

Mail Date: 04/20/2010

Applicant	: Masaaki Tomoda	: DECISION ON REQUEST FOR
Patent Number	: 7577062	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/559,061	: 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 **655** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Sven Hischke	: DECISION ON REQUEST FOR
Patent Number	: 7580421	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/559,071	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/07/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **749** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT DEPARTMENT
TAYLOR, PORTER, BROOKS &
PHILLIPS, L.L.P
P.O. BOX 2471
BATON ROUGE LA 70821-2471

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Application of :
Greenway, et al. :
Application No. 10/559,091 : ON APPLICATION FOR
Filed: May 8, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. GREENWAY02P01US

This is in response to the "APPPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)", filed January 21, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is the sum of period of adjustment under 37 CFR 1.703(a)(1) and the period of adjustment under 37 CFR 1.703(b) minus a reduction to the adjustment of 47 days for application delay. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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

---

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

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

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

for

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

COPY MAILED

MAR 3 1 2008

In re Application of :

SANZ MOLINERO, Ana Isabel et al. :
Application No. 10/559.097 : DECISION ON PETITION
Filed: September 29, 2005 : TO WITHDRAW
Attorney Docket No. **3691-050510** : 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 25, 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 Kirk Miles on behalf of all attorneys of record who are associated with customer No. 28289. All attorneys/agents associated with the Customer Number 28289 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **ANA ISABEL SANZ MOLINERO**
BERNHEIMLAAN 38
GENTGRUGG
BELGIUM B-0950

cc: **BARBARA E. JOHNSON**
ATTORNEY AT LAW
555 GRANT STREET – SUITE 323
PITTSBURGH, PA 15219

UNITED STATES PATENT AND TRADEMARK OFFICE

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20 DEC 2005

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
41 ST FL.
NEW YORK, NY 10036-2714

In re Application of TURGIS et al	:	
U.S. Application No.: 10/559,108	:	
PCT Application No.: PCT/US03/33289	:	
Int. Filing Date: 17 October 2003	:	DECISION
Priority Date Claimed: 18 October 2002	:	
Attorney Docket No.: S9025.0065	:	
For: COMPOSITIONS FO RUSE IN ENERGY CURABLE COMPOSITIONS	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 02 December 2005.

BACKGROUND

On 17 October 2003, applicant filed international application PCT/US03/33289, which claimed priority of an earlier United States application filed 18 October 2002. The thirty-month period for paying the basic national fee in the United States expired on 18 April 2005.

International application PCT/US03/33289 became abandoned as to the United States for failure to timely pay the basic national fee.

On 02 December 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

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

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 17 October 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 02 December 2005.

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

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK, NY 10019

Mail Date: 04/20/2010

Applicant	: Jean-Dominique Turgis	: DECISION ON REQUEST FOR
Patent Number	: 7589131	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/559,108	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **304** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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In re Application of	:	
Hammond et al.	:	
Application No.: 10/559,136	:	DECISION
PCT No.: PCT/GB03/02398	:	
Int. Filing Date: 30 May 2003	:	ON
Priority Date: 30 May 2002	:	
Attorney Docket No.: S1011/20189	:	PETITION
For: Moulded Components	:	

The petition to revive under 37 CFR 1.137(b) filed 10 April 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire period of abandonment through the date of this reply was unintentional." This is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

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

This application is being forwarded to the United States Designated/Elected Office for further processing. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **10 April 2006**.

Richard Cole
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DEC 17 2009

OFFICE OF PETITIONS

In re Patent No. 7,592,360 :
Liverton, et al. :
Issue Date: September 22, 2009 : DECISION ON REQUEST FOR
Application No.10/559,153 : RECONSIDERATION OF
Filed: December 5, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. 21414P :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PERIOD UNDER 37 C.F.R. § 1.705(d)" filed October 6, 2009. Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from five hundred thirty-four (534) days to eight hundred twenty-five (825) days.

Preliminarily, patentees request that the Office defer or delay a decision on this request for reconsideration until a final decision has been rendered in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008), which is now on appeal at the U.S. Court of Appeals for the Federal Circuit, under Federal Circuit Docket No. 2009-1120. However, the Office notes that there is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b) of 534 days.

This application was filed on December 5, 2005. On September 22, 2009, the application matured into U.S. Patent No. 7,592,360, with a revised patent term adjustment of 534 days. The Office determined that the 291 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1,2] overlaps with the 564

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

days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[3,4] accorded prior to the issuance of the patent. As such, the Office allowed only entry of the adjustment of 564 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 30 days, the patent issued with a revised patent term adjustment of 534 (564 - 30) days.

On September 22, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d). Patentees aver that the correct number of days of patent term adjustment is 825 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008). Specifically, patentees state:

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

[2] The application was pending three years and 291 days.

[3] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

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

[4] A restriction requirement was not mailed until August 22, 2008, fourteen months and 564 days after the date of completion of all 35 U.S.C. 371 requirements on December 5, 2005.

> Patentees now assert that they re entitled to an additional 291 day adjustment period, under 35 USC § 154(b)(1)(B). Section 154(b)(1)(B) provides that patentees are entitled to a term adjustment "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States." The actual filing date of this application in the United States was December 5, 2005, when the requirements of 35 U.S.C. § 371 were met. Accordingly, the application should have issued on December 5, 2008. This patent issued September 22, 2009, and thus the pendency period was 3 years and 291 days...Patentees should therefore be entitled to an additional 291 day patent term adjustment, and should be accorded a total of 825 days of adjustment.

Excerpt taken from "Request for Reconsideration of Patent Term Adjustment Period under 37 C.F.R. § 1.705(d) ", filed 10/06/2009, pgs.1-2.

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

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

As explained in *Explanation of 37 CFR 1.703(f)*[5] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent

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

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

term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

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

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that

periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office, beginning on the date the national stage commenced under 35 U.S.C. 371(b) on December 5, 2005, and ending on September 22, 2009, the date the patent issued (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 564 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of the patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 291 days of patent term adjustment accrued for Office issuance of the patent more than three years after the date the national stage commenced under 35 U.S.C. 371(b).

All of the 291 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 564 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 564 days and the 291 days is neither permitted nor warranted. 564 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 534 days (564 days for Office delay - 30 days of applicant delay).

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Mail Date: 04/21/2010

Applicant	: Nigel J. Liverton	: DECISION ON REQUEST FOR
Patent Number	: 7592360	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/559,153	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **825** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MADISON WI 53717

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OFFICE OF PETITIONS

In re Application of	:	
Francke et al.	:	
Application Number: 10/559158	:	ON PETITION
Filing Date: 03/28/2006	:	
Attorney Docket Number:	:	
10034.540	:	

This is a decision on the petition filed under 37 CFR 1.137(b)[1] on September 10, 2009, which, in view of petitioner's statement that the Office action of January 26, 2009 was sent to the wrong address, is first treated as a petition to withdraw the holding of abandonment.

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

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

This application was held abandoned on April 27, 2009, for failure to timely file a response to the non-final Office action

---

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

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

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

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

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

mailed on January 26, 2009, which set a three (3)-month shortened statutory period for reply. Notice of Abandonment was mailed on August 17, 2009.

On September 10, 2009, the subject petition was filed, accompanied by an amendment in reply to the last Office action.

Petitioner's counsel notes that a Change of Correspondence Address, signed by applicant's attorney, was filed on November 10, 2008, but that the Office action mailed on January 26, 2009, was mailed to the prior correspondence address. Petitioner asserts, in pertinent part, that "[t]he delay in filing a reply as referenced in the Notice of Abandonment, therefore, appears to be a Patent Office error, and not of Applicants or Undersigned Counsel, and this application should be revived at no cost to Applicants."

Upon review, a change of correspondence address signed by applicants' registered patent practitioner, Jeffry W. Smith, was filed on November 10, 2008. The Office action mailed on January 26, 2009, however, was not mailed to the address indicated in the change of correspondence address filed on November 10, 2008.

As such, the showing of record is that the Office action mailed on January 26, 2009, was not received because it was not mailed to the correct address.

The holding of abandonment is **vacated**, and the Notice of Abandonment is **withdrawn**.

As the holding of abandonment is withdrawn, the application is not abandoned, and the petition under 37 CFR 1.137(b) will be dismissed as moot. The petition fee will be credited to counsel's deposit account.

As a reply to the non-final Office action mailed on January 26, 2009 was filed with the subject petition, remailing of the subject Office action is not necessary.

The application will be referred to Technology Center Art Unit 3644 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
John MAK :
Application No. 10/559,171 : DECISION ON PETITION
Filed: June 27, 2006 : TO WITHDRAW
Attorney Docket No. 100325.0221US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 12, 2008.

The request is **NOT APPROVED.**

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

The request cannot be approved because there is no indication that the acts noted above have been performed.

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "a practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office." More specifically, 37 CFR 10.40 states, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, left the customer number, does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT FISH
FISH & ASSOCIATES, PC
2603 MAIN STREET, SUITE 1050
IRVINE, CA 92614

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OCT 31 2008

OFFICE OF PETITIONS

In re Application of :
John MAK :
Application No. 10/559,171 : DECISION ON PETITION
Filed: June 27, 2006 : TO WITHDRAW
Attorney Docket No. 100325.00221US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed September 24, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Todd W. Wight does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT FISH
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OFFICE OF PETITIONS

In re Application of :
John MAK :
Application No. 10/559,171 : DECISION ON PETITION
Filed: June 27, 2006 : TO WITHDRAW
Attorney Docket No. 100325.00221US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed November 4, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Todd W. Wight does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT FISH
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IRVINE, CA 92614

25 OCT 2007

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Kenyon & Kenyon LLP
One Broadway
New York, New York 10004

In re Application of :
BEUTNAGEL-BUCHNER, Uwe :
Application No.: 10/559,172 :
PCT No.: PCT/EP04/50882 :
Int. Filing Date: 21 May 2004 :
Priority Date: 02 June 2003 :
Attorney Docket No.: 10191/4175 :
For: DISPLAY UNIT AND METHOD FOR DISPLAYING A STEERING-WHEEL ANGLE, TO BE MODIFIED, OF A MOTOR VEHICLE

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 01 December 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 21 May 2004, applicant filed the above-captioned international application, which claimed a priority date of 02 June 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. The international application named Uwe BEUTNAGEL-BUCHNER 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 02 December 2005.

On 01 December 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee, a copy of the international application, and a declaration executed by Uwe BEUTNAGEL-BUCHNER and Petko FABER.

On 19 January 2007, 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 declaration filed 01 December 2005 was defective because it indicated an additional inventors not listed on the published international application.) The notification set a two-month time limit in which to respond.

On 19 July 2007, applicant filed "Response to Missing Requirements under 35 U.S.C. 371." The response includes documents filed with the European Patent Office regarding the correction of inventorship.

DISCUSSION

The declaration filed 01 December 2005 is not acceptable. Specifically, the declaration sets forth an additional inventor (Petko FABER) who has 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 Petko FABER, (2) a new declaration naming and signed by only Uwe BEUTNAGEL-BUCHNER accompanied by an acceptable explanation of the misnaming of the inventor on the present declaration, or (3) a Notification of the Recording of a Change (Form PCT/IB/306) issued by the International Bureau confirming the request under PCT Rule 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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04 APR 2008

Kenyon & Kenyon LLP
One Broadway
New York, New York 10004

In re Application of	:	
BEUTNAGEL-BUCHNER, Uwe	:	DECISION ON PETITION
Application No.: 10/559,172	:	UNDER 37 CFR 1.181
PCT No.: PCT/EP04/50882	:	AND
Int. Filing Date: 21 May 2004	:	PETITION UNDER
Priority Date: 02 June 2003	:	37 CFR 1.497(d) TO CORRECT
Attorney Docket No.: 10191/4175	:	INVENTORSHIP
For: DISPLAY UNIT AND METHOD FOR DISPLAYING A STEERING-WHEEL ANGLE, TO BE MODIFIED, OF A MOTOR VEHICLE		

This decision is issued in response to applicant's "Petition to Withdraw Holding of Abandonment under 37 CFR 1.181" filed on 29 February 2008.

BACKGROUND

On 21 May 2004, applicant filed the above-captioned international application, which claimed a priority date of 02 June 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. The international application named Uwe BEUTNAGEL-BUCHNER 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 02 December 2005.

On 01 December 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee, a copy of the international application, and a declaration executed by Uwe BEUTNAGEL-BUCHNER and Petko FABER.

On 19 January 2007, 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 declaration filed 01 December 2005 was defective because it indicated an additional inventors not listed on the published international application.) The notification set a two-month time limit in which to respond.

On 19 July 2007, applicant filed "Response to Missing Requirements under 35 U.S.C. 371." The response included documents filed with the European Patent Office regarding the correction of inventorship.

On 25 October 2007, the Office of PCT Legal Administration mailed "Notification Regarding Defective Declaration and Requirement for New Declaration or Request under 37 CFR 1.497(d).

On 31 January 2008, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ABANDONMENT indicating that the application was abandoned for failure to file a complete response to the Decision on Petition mailed 25 October 2007 within the time period set therein.[1]

On 29 February 2008, applicant filed "Petition to Withdraw Holding of Abandonment under 37 CFR 1.181."

DISCUSSION

A. Petition to Withdraw Holding of Abandonment

The above-identified application was abandoned for failure to respond to the Notification Regarding Defective Declaration and Requirement for New Declaration or Request under 37 CFR 1.497(d) mailed 25 October 2007. Applicant states in the present petition that a request under 37 CFR 1.497(d) was mailed to the United States Patent and Trademark Office on 26 November 2007 pursuant to 37 CFR 1.10. A review of the application file reveals that the request under 37 CFR 1.497(d) allegedly filed 26 November 2007 is not located therein.

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

[1]The Notice of Abandonment should have indicated that the application was abandoned for failure to file a complete response to the "Notification Regarding Defective Declaration and Requirement for New Declaration or Request under 37 CFR 1.497(d)" mailed 25 October 2007, not the Decision on Petition mailed 25 October 2007.

> label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and
>
> (4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence, and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence and original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Applicant has satisfied Items (1) through (4). The evidence of record is sufficient to establish with reasonable certainty that the Request under 37 CFR 1.497(d) was deposited with the United States Postal Service as an "Express Mail" Mailing on 26 November 2007.

Applicant's petition to withdraw the holding of abandonment is granted.

B. Petition to Correct Inventorship

The present submission seeks to correct the inventorship so as to add inventor Petko Faber 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.

Applicant's submission satisfies the requirements of 37 CFR 1.497(d). Applicant has submitted a statement from each person being added as an inventor in compliance with 37 CFR 1.497(d)(1). The authorization contained in the 26 November 2007 submission will be used to charge Deposit Account No. 11-0600 the $130 processing fee required under 37 CFR 1.1497(d)(2). And applicant has submitted a statement of consent by the assignee, along with a copy of the Assignment document by which the assignee obtained its interest in the present application.

Based on the above, applicant's request to add Petko FABER as an inventor is appropriately granted. Based on this correction, the declaration filed on 01 December 2005 (which named Uwe BEUTNAGEL-BUCHNER and Petko FABER) is acceptable under 37 CFR 1.497.

CONCLUSION

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

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

A review of the application papers reveals that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 21 May 2004 and a date of **01 December 2005** 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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Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SUITE 1400
ARLINGTON VA 22201

MAILED

MAR 31 2010

OFFICE OF PETITIONS

In re Application of	:	
Welz-Biermann et al.	:	
Application No. 10/559,183	:	DECISION ON PETITION
Filed: April 2, 2007	:	
Attorney Docket No. MERCK-3105	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 29, 2010, as required by the Notice of Allowance and Fee(s) Due mailed October 29, 2009. Accordingly, the date of abandonment of this application is January 30, 2010. A Notice of Abandonment was mailed February 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and publication fee of $300.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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CURATOLO SIDOTI CO., LPA
24500 CENTER RIDGE ROAD, SUITE 280
CLEVELAND, OH 44145

Mail Date: 04/21/2010

Applicant	: Stefan Michael Furrer	: DECISION ON REQUEST FOR
Patent Number	: 7632964	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/559,194	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **713** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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25 JUL 2006

Mark E. Bandy
Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue, Seventh Floor
Cleveland, Ohio 44114

In re Application of :
PEARCE, et al. :
PCT No.: PCT/US04/17786 : DECISION ON PETITION
Application No.: 10/559,197 :
Int. Filing Date: 04 June 2004 : UNDER 37 CFR 1.47(a)
Priority Date: 05 June 2003 :
Atty. Docket No.: MCII 200002 :
For: COMPOSITIONS AND METHODS FOR DARKENING AND IMPARTING CORROSION-RESISTANT PROPERTIES TO ZINC OR OTHER ACTIVE METALS :

This decision is in response to applicant's "Petition Under 37 C.F.R. § 1.47" filed 31 March 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 04 June 2004, applicant filed international application PCT/US04/17786 which claimed priority to an earlier application filed 05 June 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 December 2005.

On 02 December 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 23 February 2006, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 31 March 2006, applicant filed the present petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of joint inventor Michelle R. Pearce.

DISCUSSION

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

CONCLUSION

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

The application has an international filing date of 04 June 2004 under 35 U.S.C. 363, and will be given a date of **31 March 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

03 JAN 2006

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Alexandria, VA 22313-1450
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HONEYWELL INTERNATIONAL INC.
Law Department
101 Columbia Road
Morristown, NJ 07962

In re Application of :
MUKHERJEE, Shankar :
U.S. Application No.: 10/559,205 :
PCT No.: PCT/IB2003/001786 :
Int. Filing Date: 05 August 2003 :
Priority Date: None :
Attorney Docket No.: H0004750 :
For: TURBOCHARGER WITH A VARIABLE NOZZLE DEVICE :

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

Applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 02 December 2005 is hereby **GRANTED** as follows:

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

An executed declaration in compliance with 37 CFR 1.497(a) and (b) has not been provided.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee pursuant to 37 CFR 1.492(h) are required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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

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APR 08 2008

OFFICE OF PETITIONS

In re Application of Köthen et al. :
Application No. 10/559,207 : Decision on Petition
Filing Date: December 2, 2005 :
Attorney Docket No. 410001-374PUS :

This is a decision on the petition under 37 CFR 1.181, filed May 18, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

A final Office action was mailed October 13, 2006.

A Notice of Appeal, Pre-Appeal Brief Request for Review, and payment for a three-month extension of time were filed April 16, 2007. The Certificate of Mailing date on the papers was April 12, 2007. Therefore, the papers were timely filed.

A Notice of Abandonment was mailed May 4, 2007. The Notice incorrectly stated petitioner had failed to file a response to the October 13, 2006 Office action.

The instant petition was filed May 18, 2007.

The Office mailed a "Letter Rescinding Notice of Abandonment" on May 23, 2007. However, the Office did not mail a decision on the instant petition. Therefore, the instant petition is technically still outstanding.

The petition filed May 18, 2007, is granted and the application is not abandoned.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Nutter McClennen & Fish LLP
Thomas Engellenner
155 Seaport Boulevard
Boston, MA 02210

Mail Date: 04/21/2010

Applicant	: Bernard Meunier	: DECISION ON REQUEST FOR
Patent Number	: 7649091	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/559,221	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **41** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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: 04/21/2010

Applicant	: Yoshimichi Kawai	: DECISION ON REQUEST FOR
Patent Number	: 7665271	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/559,246	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1084** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

27 FEB 2006

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WELSH & KATZ, LTD
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CHICAGO IL 60606

In re Application of CLAR, Heimo et al. Application No.: 10/559,250 PCT No.: PCT/AT2003/000173 Int. Filing Date: 18 June 2003 Priority Date: 19 June 2002 Docket No.: 8052-95790 For: DEVICE FOR MEASURING AND MONITORING THE FRACTIONAL LOAD OF ORTHOPAEDIC AND SURGICAL PATIENTS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 01 December 2005 is **GRANTED**.

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

Applicants have not yet supplied an executed oath or declaration in compliance with 37 CFR 1.497(a)-(b). The fees for late filing of the search fee, examination fee or oath or declaration and the fee for late filing of the English translation will be charged to deposit account no. 23-0920, as authorized.

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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Facsimile: 571-273-0459

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0 3 JAN 2007

23364
MORGAN LEWIS & BOCKIUS LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004

In re Application of
CHISEI RA *et al*
U.S. Application No.: 10/559,265
PCT No.: PCT/JP03/07086
Int. Filing Date: 04 June 2003
Priority Date: None
Attorney Docket No.: 042715-5018
For: REGULATION OF EXPRESSION OF HIGH-AFFINITY IMMUNOGLOBIN E (IgE) RECEPTOR ß-CHAIN

DECISION ON PETITION

TO WITHDRAW HOLDING

OF ABANDONMENT

This decision is in response to the "Petition to Withdraw Holding of Abandonment" filed 05 December 2006. No fee is required.

BACKGROUND

On 31 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) indicating that a computer readable form (CRF) sequence listing diskette in compliance with 37 CFR 1.821-1.825 was required. A two-month time limit in which to respond was set with extensions of time available.

On 24 November 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) for failing to respond to the Form PCT/DO/EO/922 mailed 31 May 2006 within the time period set therein.

On 05 December 2006, applicants filed the subject petition along with a five-month extension of time and a CRF sequence listing.

DISCUSSION

A review of the above-captioned application verifies that the time limit to respond to the Form PCT/DO/EO/922 mailed 31 May 2006 had not yet expired. In the response filed 05 December 2006, applicants filed a CRF sequence listing along with a five-month extension and authorization to charge the fee to Deposit Account No. 50-0310.

The CRF has been checked as good technically by the Scientific and Technical Information Center at the USPTO and entered into the database. The five-month extension of time fee has been charged as authorized.

CONCLUSION

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

Accordingly, the Form PCT/DO/EO/909 mailed 24 November 2006 was sent prematurely and 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 04 June 2003 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 02 December 2005.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

0 1 OCT 2008

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

Millen, White, Zelano & Branigan, PC
2200 Clarendon Blvd
Suite 1400
Arlington, VA 22201

In re Application of :
WALD et al. :
Application No. 10/559,272 :
PCT No.: PCT/EP04/04848 : DECISION ON PETITION
Int. Filing Date: 06 May 2004 :
Priority Date: 04 June 2003 : UNDER 37 CFR 1.181
Attorney Docket No.: Merck-3098 :
For: PHL P 5A DERIVATIVES HAVING : :
REDUCED ALLERGENEITY AND
RETAINED T-CELL REACTIVITY

This decision is issued in response to applicants' "Request for Withdrawal of Improper Holding of Abandonment" filed 25 February 2008.

Applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181 is GRANTED.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) mailed 18 January 2007, which set a period for reply of two (2) months. Accordingly, this application became abandoned at midnight on 18 March 2007.

Applicants state in their present petition that the Statement to Support Filing and Submission in Accordance with 37 CFR 1.821-1.825; the Sequence Listing in Computer Readable Form; and the Paper Copy of Sequence Listing were received at the United States Patent and Trademark Office on 19 March 2007. A review of the present application reveals that applicants' 19 March 2007 filing is not located therein.

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 Manual of Patent Examining Procedure §503.) Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicants, attorney docket number, and serial number. The receipt itemizes: the Statement to Support Filing and Submission in Accordance with 37 CFR 1.821-1.825; Sequence Listing in Computer Readable Form; and a Paper Copy of Sequence Listing. The receipt is stamped "Rec'd. OIPE MARCH 19, 2007" across its face and is sufficient to indicate that all necessary components under 37 CFR 1.821-1.825 were in fact received in the Office on 19 March 2007.

Therefore, the holding of abandonment has been withdrawn.

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

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

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

COPY MAILED

FEB 0 4 2008

OFFICE OF PETITIONS

In re Application of :
MEINHERZ, et al. :
Application No. 10/559,284 :
Filed: December 2, 2005 :
Attorney Docket No. **2003P07818** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

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

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER, LLP** has been revoked by the assignee of the patent application on August 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

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

25 JUN 2007

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

In re Application of	:	
PEYRIN et al.	:	
Application No.: 10/559,289	:	DECISION
PCT No.: PCT/FR2004/001392	:	
Int. Filing Date: 04 June 2004	:	
Priority Date: 05 June 2003	:	
Attorney Docket No.: 126014	:	
For: NUCLEIC ACIDS IN THE FORM OF SPECIFIC NOVEL CHIRAL SELECTORS	:	

This decision is in response to applicant's "REQUEST FOR REFUND TO DEPOSIT ACCOUNT" filed in the United States Patent and Trademark Office (USPTO) on 02 December 2005.

BACKGROUND

On 04 June 2004, applicant filed international application PCT/FR2004/001392, which designated the U.S. and claimed a priority date of 05 June 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 23 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 December 2005.

On 02 December 2005, applicant filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a preliminary amendment to the claims.

On 01 February 2006, applicants filed a declaration of inventors.

On 12 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, according the application a 35 U.S.C. 371 date of 01 February 2006.

On 20 October 2006, applicant filed the instant "REQUEST FOR REFUND TO DEPOSIT ACCOUNT".

DISCUSSION

The request for refund requests a refund of the fees charged to Deposit Account 15-0461 on 08 December 2006 and 27 December 2006. A review of the application file indicates that these charges were made in error. The total of $175 charged on these dates has been credited to

Deposit Account-15-0461.

CONCLUSION

The request for refund under 37 CFR 1.26 is **GRANTED** for the reasons set forth above.

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

Repln. Ref: 06/25/2007 SBASHEIR 0012280600
DA#:150461 Name/Number:10559289
FC: 9204 $175.00 CR

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

19 DEC 2005

Ronald J. Baron
HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, NY 11791

In re Application of:	
BENNETT, Simon, Thomas, et al.	DECISION ON PETITION FOR
U.S. Application No.: 10/559,294	REVIVAL OF ABANDONED
PCT No.: PCT/GB2004/001848	APPLICATION UNDER
International Filing Date: 29 April 2004	37 CFR 1.137(b)
Priority Date: 29 April 2003	
Attorney's Docket No.: 294-239 PCT/US	
For: METHOD OF DIAGNOSINS A GENETIC SUSCEPTIBILITY FOR BONE DAMAGE	

The petition for revival under 37 CFR 1.137(b) filed 30 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" satisfies the requirements of 37 CFR 1.137(b)(3).

Applicant has now submitted the small entity basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

The 30 November 2005 submission included an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 08-2461 will be charged the small entity surcharge for filing the declaration later than thirty months after the priority date.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 30 November 2005.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
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31 JAN 2006

John R. Hlavka, Esq.
Watts Hoffmann Co., L.P.A.
P.O. Box 99839
Cleveland, OH 44199-0839

In re Application of	
Legat, et al.	
Serial No.: 10/559,299	DECISION ON
PCT No.: PCT/EP04/03909	PETITION
Int. Filing Date: 14 April 2004	UNDER 37 CFR 1.137(b)
Priority Date: 30 April 2003	
Attorney's Docket No.: 16-937P/US	
For: METHOD FOR THE PRODUCTION OF CONNECTION SYSTEMS, AND CONNECTION SYSTEMS PRODUCED ACCORDING TO SAID METHODS	

This decision is responsive to the "PETITION FOR REVIVIAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)" filed 01 December 2005.

BACKGROUND

On 14 April 2004, applicants filed international application PCT/EP04/03909, which claimed priority of an earlier German application filed 30 April 2003. A copy of the international application was received by the United States Patent and Trademark Office from the International Bureau on 11 November 2004. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expires at midnight on 30 October 2005.

On 01 December 2005, applicants filed the current petition along with a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by, *inter alia*, a translation of the international application, a petition to revive, a check for the fee for the petition to revive and authorization to charge the deposit account for the basic national fee. These papers were assigned Application No. 10/559,299.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied (1) by a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," (2) by a proper reply, (3) by the petition fee required by law (37 CFR 1.17(m)), and (4) if the international filing date of the application is before June 8, 1995, any petition to revive under 37 CFR 1.137(b) must be accompanied by a terminal disclaimer and small entity fee of $55

Applicants have provided the required statement, a proper reply and the petition fee. Therefore, the petition to revive is GRANTED.

CONCLUSION

The petition to revive the application abandoned under 35 U.S.C. 371(d) is **GRANTED** as to the National Stage in the United States of America.

This application is being forwarded to the national stage office for preparation of a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant is required to furnish a signed declaration of inventors.

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
Fax: (571) 273-0459

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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LILLING & LILLING PLLC
PO BOX 435
JERUSALEM, ISRAEL 91003

RECEIVED

JAN 05 2009

OFFICE OF PETITIONS

In re Application of
SALMAN, Golan et al.
Application No. 10/559,300
Filed: December 01, 2005
Attorney Docket No. **S1133U**

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 03, 2008.

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

A review of the file record indicates that the power of attorney to Lilling & Lilling PLLC has been revoked by the assignee of the patent application on December 04, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **THE NATH LAW GROUP**
112 SOUTH WEST STREET
ALEXANDRIA VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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07 FEB 2007

COATS & BENNETT, PLLC
P O BOX 5
RALEIGH, NC 27602

In re Application of GIRODET et al :
U.S. Application No.: 10/559,308 :
PCT Application No.: PCT/FR2004/001217 :
Int. Filing Date: 17 May 2004 : DECISION
Priority Date Claimed: 02 June 2003 :
Attorney Docket No.: 4195-031 :
For: DEVICE FOR DISINFECTING WATER BY MEANS OF ULTRAVIOLET RADIATION :

This is in response to the correspondence filed 09 November 2006.

BACKGROUND

On 17 May 2004, applicant filed international application PCT/FR2004/001217, which claimed priority of an earlier France application filed 02 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 02 December 2005.

On 01 December 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 09 November 2006, applicant filed a declaration executed by one of the joint inventors.

On 01 December 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that a properly executed oath or declaration must be submitted.

On 09 January 2007, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventor on his own behalf and on behalf of the nonsigning inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Christian Vanpeene refuses to sign the declaration. However, the petition fails to demonstrate that a bona fide attempt was made to present a copy of the application papers to Vanpeene for signature and that Vanpeene received such papers. Furthermore, the petition fails to provide details of the purported refusal in an affidavit signed by the person to whom the refusal was made. Thus, it would not be reasonable to conclude at the present time that Vanpeene refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

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

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

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,318	12/02/2005	Hiroshi Shibata	MAT-8787US	9059

52473 7590 06/28/2007

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

EXAMINER	
WALBERG, TERESA J	

ART UNIT	PAPER NUMBER
3744	

MAIL DATE	DELIVERY MODE
06/28/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10559318	12/2/2005	SHIBATA ET AL.	MAT-8787US

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

EXAMINER	
Teresa J.. Walberg	
ART UNIT	**PAPER**
3744	20070619

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

This letter is in response to the petition under 37 CFR 1.181, received 07 June 2007, for acknowledgement of priority document.

Inspection of the file does not reveal any foreign priority document being received. Additionally, the declaration received 02 December 2005 lists two foreign applications, but states that foreign priority is not claimed.

Accordingly, the request for acknowledgement of a claim for foreign priority and receipt of foreign priority documents is denied.

Teresa J. Walberg
Primary Examiner
Art Unit: 3744

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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03 AUG 2006

Robert L. Stearns
Howard & Howard Attorneys, PC
39400 Woodward Avenue, Suite 101
Bloomfield Hills, MI 48304-5151

In re Application of	:	
KLINNER	:	
U.S. Application No.: 10/559,327	:	DECISION ON PETITION
PCT No.: PCT/DE04/00678	:	
Int. Filing Date: 01 April 2004	:	UNDER 37 CFR 1.137(b)
Priority Date: 03 June 2003	:	
Attorney Docket No.: FHH2846/71027-031	:	
For: METHOD FOR THE PRODUCTION OF A FLAT SEAL, AND FLAT SEAL	:	

The petition to revive under 37 CFR 1.137(b) filed 02 May 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a compliant, executed oath or declaration of the inventor is required.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
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10 AUG 2006

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

In re Application of
VAN DER MARK et al.
Application No.: 10/559,353 (10/564,541)
PCT No.: PCT/IB04/01969
Int. Filing Date: 08 June 2004
Priority Date: 11 June 2003
Attorney Docket No.: FR 030060 (FR 030064)
For: CHANNEL SYNCHRONIZATION FOR TWO - DIMENSIONAL OPTICAL RECORDING

DECISION on

MERGING APPLICATION FILES

The above-identified application is before the PCT Legal Office for matters arising under 35 U.S.C. 371.

BACKGROUND

On 08 June 2004 , applicant filed international application No. PCT/IB04/01969, which claimed priority of an earlier international application filed 11 June 2003 and designating the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 December 2004. The deadline for entering the U.S. national stage to 30 months or as of midnight on 17 December 2005.

On 06 December 2005, applicant filed, through the above identified law firm, a Transmittal letter for entry into the national stage in the United States (Form PTO-1390) which was accompanied by, *inter alia*, the basic national filing fee. The submission, identifying PCT/IB04/01969, was assigned U.S. application number: 10/559,353.

On 12 January 2006, applicant, through the same law firm, filed a second Transmittal Letter (Form PTO-1390) referencing PCT/IB04/01969 and requesting entry into the national stage in the United States. The communication was accompanied by, *inter alia*, authorization to charge fees to applicant's deposit account including the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and executed declarations. These papers were assigned U.S. application number 10/564,541.

On 31 May 2006, a Notification of Missing Requirements was mailed in 10/559,353 indicating that the declaration submitted on 06 December 2005 was unacceptable and requiring a new declaration in compliance with 37 CFR 1.497(a) and (b).

DISCUSSION

As is evident from the above recited facts, applicant submitted papers to enter the national stage for the same international application on 06 December 2005 and 12 January 2006. The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, assigning a second U.S. application number arising from PCT/IB04/01969 was improper.

The papers filed on 12 January 2006 and assigned application no. 10/564,541 will be merged in application file 10/559,353. Application no. 10/559,353 is considered the U.S. national stage application arising from PCT/IB04/01969.

CONCLUSION

U.S. application no. 10/559,353 is the national stage application arising from PCT/IB04/01969. The papers submitted on 12 January 2006 will be retained in the application file no. 10/559,353.

Applicant is advised that all future communication regarding **PCT/IB04/01969** should reference U.S. serial no. **10/559,353**.

U.S. application 10/559,353 is being forwarded to the United States Designated/Elected Office for further processing in accord with this decision.

Cynthia M. Kratz
Attorney/Advisor
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PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

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OFFICE OF PETITIONS

In re Application of :
Gjerde et al. :
Application No. 10/559,368 : ON PETITION
Filed: April 21, 2006 :
Attorney Docket No. BRYN/0009 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 22, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition does not lack any of the above-listed items. However, the petition must be signed by:

(1) An attorney or agent of record appointed in compliance with § 1.34(b);

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or
(5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

As the petition was signed by only one of the two listed inventors, it does not comply with (5) above.

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

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

COPY MAILED
MAR 15 2010

In re Application of	:	
Gjerde et al.	:	
Application No. 10/559,368	:	ON PETITION
Filed: April 21, 2006	:	
Attorney Docket No. BRYN/0009	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed January 25, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition now satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied a petition signed by the two listed inventors.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3628 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

02 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of:
PORTNYKH, Vladimir, et al.
U.S. Application No.: 10/559,374
PCT No.: PCT/KR2004/000489
Int'l Filing Date: 10 March 2004
Priority Date: 07 June 2003
Attorney's Docket No.: Q76716
For: APPARATUS AND METHOD FOR ORGANIZATION AND INTER-PRETATION OF MULTIMEDIA DATA ON A RECORDING MEDIUM

DECISION ON PETITION
(37 CFR 1.47(a))

This decision is issued in response to applicants' petition under 37 CFR 1.47(a) filed 22 November 2006. Applicants have submitted $130 as the petition fee; however, the appropriate petition fee is $200. Deposit Account No. 19-4880 will be charged the additional $70 required to complete the petition fee.

BACKGROUND

On 10 March 2004, applicants filed international application PCT/KR2004/000489. The international application claimed a priority date of 07 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., 07 December 2005.

On 06 December 2005, applicants filed a Transmittal Letter for entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee and a declaration executed by three of the four inventors (the declaration was not executed by inventor Vladimir PROTNYKH).

On 14 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance (Form PCT/DO/EO/903) indicating that the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) were satisfied as of 06 December 2005. On the same date, a filing receipt was mailed identifying 06 December 2005 as the date under 35 U.S.C. 371(c).

On 22 November 2006, applicants filed the petition considered herein, requesting acceptance of the application without the signature of co-inventor Vladimir PRTNYKH, whom applicants assert cannot be reached or located after diligent effort.

DISCUSSION

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

Applicants here have submitted the required petition fee, and the petition sets forth the last known addresses of the non-signing inventors. Accordingly, items (1) and (2) are 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 filed, on 06 December 2005, a declaration executed by three of the four inventors and including an unsigned signature box identifying the non-signing inventor. This declaration may be treated as having been executed by the available inventors on their own behalf and on behalf of the non-signing inventor. Item (3) is therefore satisfied.

Regarding item (4), the petition asserts that the non-signing inventor has refused to execute the declaration. Where it is asserted that an inventor has refused to execute the application papers, section 409.03(d) of the MPEP states that a "copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." Here, applicants have provided firsthand statements from Tracy Johnson and Darryl Mexic, with accompanying documentary support, demonstrating that a copy of the complete application was forwarded to the inventor, and that the inventor expressly refused to sign the required declaration. Item (4) is therefore satisfied.

Based on the above, applicants have satisfied all the requirements for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

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

The application is accepted without the signature of inventor Vladimir PORTNYKH.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the inventors of the application will be forwarded to the non-signing inventor at his last-known address, as set forth in the petition.

It is noted that, based on the granting of the present petition, the Notification Of Acceptance and filing receipt mailed 14 April 2006 correctly identify the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 06 December 2005.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

04 AUG 2006

THE BOC GROUP, INC.
575 MOUNTAIN AVENUE
MURRAY HILL NJ 07974-2064

In re Application of:
MANGNALL, Kish (deceased), et al.
U.S. Application No.: 10/559,394
PCT No.: PCT/GB2004/001532
International Filing Date: 07 April 2004
Priority Date: 07 June 2003
Attorney's Docket No.: M03B301
For: COMBINATION OF COMPRESSOR AND PERMANENT MAGNET MOTOR FOR SEWAGE AERATION

DECISION REGARDING SUBMISSION UNDER 37 CFR 1.42

This communication is issued in response to applicants' submission on 17 April 2006 of a declaration executed on behalf of deceased inventor Keith MANGNALL by his legal representative Jean MANGNALL, which has been treated as a submission under 37 CFR 1.42.

BACKGROUND

On 07 April 2004, applicants filed international application PCT/GB2004/001532. The international application claimed a priority date of 07 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., 07 December 2005.

On 05 December 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 03 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration acceptable under 37 CFR 1.497 was required.

On 17 April 2006, applicants filed a response to the Notification Of Missing Requirements that included payment of the required surcharge and a declaration executed by the surviving inventor (Kevan GRADWELL) and on behalf of deceased inventor Keith MANGNALL by his legal representative Jean MANGNALL. The declaration is considered below as a submission under 37 CFR 1.42 and 1.497.

DISCUSSION

37 CFR 1.42 states in part:

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

37 CFR 1.497(b)(2) states:

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

Pursuant to 37 CFR 1.497(b)(2), the declaration must provide the citizenship, mailing address, and residence information for both the deceased inventor and the legal representative.

Here, the declaration filed on 17 April 2006: (1) is executed by the surviving inventor; (2) contains an unsigned signature block for the deceased inventor that sets forth the deceased inventor's citizenship, residence, and mailing address; and (3) includes a supplemental sheet that is executed by the legal representative of the deceased inventor and sets forth the legal representative's citizenship, residence, and mailing address. This declaration satisfies the requirements of 37 CFR 1.42 and 1.497.

CONCLUSION

Based on the above, status under 37 CFR 1.42 is **GRANTED**.

The declaration filed 17 April 2006 is acceptable under 37 CFR 1.42 and 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 17 April 2006.

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

03 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCKELLAR IP LAW, PLLC
784 SOUTH POSEYVILLE ROAD
MIDLAND MI 48640

In re Application of	:	
ARMSTRONG et al.	:	
Application No.: 10/559,399	:	DECISION
PCT No.: PCT/US04/18074	:	
Int. Filing Date: 08 June 2004	:	
Priority Date: 09 June 2003	:	
Attorney Docket No.: DC-5067US	:	
For: MAGNETIC SEPARATOR APPARATUS	:	

This is a decision on applicants' submission filed 06 January 2006 in the United States Patent and Trademark Office (USPTO), which has properly been treated as a petition under 37 CFR 1.47(a).

BACKGROUND

On 08 June 2004, applicants filed international application PCT/US04/18074, which designated the United States and claimed a priority date of 09 June 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 23 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 09 December 2005.

On 05 December 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 06 January 2006, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors and a copy of a letter from Mr. Paul Fears to Mr. Frank Perrin.

DISCUSSION

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

Item (1) has not been met. The petition fee is $200 rather than $130.

Item (3) has been met.

Item (2) has not been met. It is alleged that the non-signing inventor Stephen John Dobney cannot be found. MPEP 409.03(d), item I, states in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> . . .
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts.

Here, such a statement of facts has not been provided. Additionally, the only documentary evidence provided is a letter concluding that Mr. Dobney could not be reached.

Item (4) has not been met. The declaration filed 06 January 2006 is not in compliance with 37 CFR 1.497(a)-(b). Each executed declaration must be complete. For example, each executed declaration must identify all of the inventors. Here it is not clear that any of the inventors signed a complete declaration. The declaration pages are not numbered and the names of the inventors seem to be randomly set forth on the different pages of the declaration: one page lists one inventor; another page lists four inventors; and another page lists two inventors. There are two copies of the page listing two inventors, one signed by each inventor listed. 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. Additionally, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date is required.

CONCLUSION

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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13 SEP 2006

MCKELLAR IP LAW, PLLC
784 SOUTH POSEYVILLE ROAD
MIDLAND MI 48640

In re Application of	:	
ARMSTRONG et al.	:	
Application No.: 10/559,399	:	DECISION
PCT No.: PCT/US04/18074	:	
Int. Filing Date: 08 June 2004	:	
Priority Date: 09 June 2003	:	
Attorney Docket No.: DC-5067US	:	
For: MAGNETIC SEPARATOR APPARATUS	:	

This is a decision on applicants' submission filed 16 June 2006 in the United States Patent and Trademark Office (USPTO), which included a declaration of inventors.

BACKGROUND

On 08 June 2004, applicants filed international application PCT/US04/18074, which designated the United States and claimed a priority date of 09 June 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 23 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 09 December 2005.

On 05 December 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 06 January 2006, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors and a copy of a letter from Mr. Paul Fears to Mr. Frank Perrin.

On 03 May 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) without prejudice because factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided nor had a declaration in compliance with 37 CFR 1.497(a)-(b) been provided.

On 16 June 2006, applicants filed the instant submission which includes a declaration of inventors signed by previously non-signing inventor Stephen John Dobney.

DISCUSSION

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

The declaration of inventors filed 16 June 2006 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SQUIRE SANDERS & DEMPSEY LLP
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40 NORTH CENTRAL AVENUE
SUITE 2700
PHOENIX AZ 85004-4498

MAILED

FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of

OPIE, John C. et al.
Application No. 10/559,400
Filed: May 25, 2006
Attorney Docket No. **032303.00018**

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 04, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Alex Starkovich on behalf of all attorneys of record who are associated with customer No. 23619. 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 John C. Opie at the address indicated below.

The application became abandoned for failure to timely reply to the office action mailed June 27, 2008.

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: **JOHN C. OPIE**
3337 N. MILLER RD., #105
SCOTTSDALE, AZ 85251

1 4 MAR 2008

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

In re Application of	:	DECISION ON
Bennett et al	:	
Application No.: 10/559,401	:	
PCT No.: PCT/US2004/013379	:	PETITION UNDER
Int. Filing Date: 30 April 2004	:	
Priority Date: 04 June 2003	:	
Attorney's Docket No.: ISPH-0852USA	:	37 CFR 1.181
For: OLIGONUCLEOTIDE MODULATION OF CELL ADHESION	:	

This Decision is in response to applicants' "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed on 15 January 2008, which is being treated as a petition under 37 CFR 1.181 requesting the acceptance of the executed declaration as timely filed since the Notification of Missing Requirements mailed on 28 April 2008 was not received.

BACKGROUND

On 30 April 2004, applicants filed international application PCT/US2004/013379, which claimed priority of an earlier application filed 04 June 2003.

On 05 December 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee. No oath or declaration of the inventors accompanied the transmittal letter.

On 28 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date" must be submitted within two months from the this Notice or by 32 months from the priority date, whichever is later, in order to avoid abandon-ment of the national stage application.

On 26 November 2007, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT," which stated that applicant has failed to respond to the notification of MISSING REQUIRMENTS (Form PCT/DO/EO/905), mailed on 28 April 2006 within the time period set therein.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 26 November 2007, applicants submitted on 15 January 2008 the instant petition requesting withdrawal of the Notice of Abandonment.

DISCUSSION

A review of the Image file Wrapper (IFW) of the above application reveals that there is no record of the ""NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905)" being scanned into the file so there is no copy in the in the PAIR section entitled.

In addition, the declaration of Mary Katherine Merlino, shows that the Notification was not received by the previous counsel as evidenced by the submitted papers.

Accordingly, petitioner has met the requirements under MPEP section 711.03(c) to establish nonreceipt of an Office action.

DECISION

The petition under 37 CFR 1.181 is **GRANTED**. The Notification of Abandonment (PCT/DO/EO/909) mailed 28 April 2006 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.

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

Enclosed: "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905)" mailed on 28 April 2006.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/559,401	C Frank Bennett	ISPH-0852USA

INTERNATIONAL APPLICATION NO.	
PCT/US04/13379	
I.A. FILING DATE	PRIORITY DATE
04/30/2005	06/04/2003

34138
COZEN O'CONNOR, P.C.
1900 MARKET STREET
PHILADELPHIA, PA 19103-3508

CONFIRMATION NO. 5614

371 FORMALITIES LETTER

OC000000018641861

Date Mailed: 04/28/2006

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Indication of Small Entity Status
- Copy of the International Application filed on 12/05/2005
- Copy of the International Search Report filed on 12/05/2005
- Preliminary Amendments filed on 12/05/2005
- U.S. Basic National Fees filed on 12/05/2005
- Specification filed on 12/05/2005
- Claims filed on 12/05/2005
- Abstracts filed on 12/05/2005
- Drawings filed on 12/05/2005
- Paper nucleotide sequence listings filed on 12/05/2005

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fees required for this application is **$65** for a Small Entity:

- **$65** Surcharge.

- This application clearly fails to comply with the requirements of 37 CFR. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", **as well as an amendment specifically directing its entry into the application**. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825 (d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821 (e) may be submitted in lieu of a new CRF.
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:

- **For Rules Interpretation, call (571) 272-0951**
- **For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.**
- **Send e-mail correspondence for Patentin Software Program Help @ ebc@uspto.gov**

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

PAULETTE R KIDWELL

Telephone: (703) 308-9140 EXT 216

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/559,401	PCT/US04/13379	ISPH-0852USA

FORM PCT/DO/EO/905 (371 Formalities Notice)

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

Mail Date: 04/23/2010

Applicant	: John W. Patterson	: DECISION ON REQUEST FOR
Patent Number	: 7662849	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/559,405	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/26/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **579** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CASSAN MACLEAN
307 GILMOUR STREET
OTTAWA ON K2P OP7 CA
CANADA

MAILED

MAY 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Hui-Fen Zhao et al	:	
Application No. 10/559,411	:	DECISION ON PETITION
Filed: December 5, 2005	:	UNDER 37 CFR 1.313(c)
Attorney Docket No. 42137-0037	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 26, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1633 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

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

21 FEB 2007

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Richard A, Speer
MAYER, BROWN, ROWE & MAW LLP
P.O. BOX 2828
CHICAGO IL 60690-2828

In re Application of	:	DECISION ON
HEIMANN et al	:	
Application No.: 10/559,421	:	
PCT No.: PCT/EP2004/050810	:	
Int. Filing Date: 14 May 2004	:	PETITION UNDER
Priority Date: 12 June 2003	:	
Attorney Docket No.: 05144829	:	
For: FLOAT FOR A FILL LEVEL SENSOR	:	35 CFR 1.182

This decision is in response to applicants' "RESPONSE TO NOTIFICATION... OFFICE (DO/EO/US0)," filed on 16 October 2006, which is being treated as a petition under 37 CFR 1.182. Applicants have been charged the petition fee of $400.00 to Deposit Account No. 13-0019 as authorized in the petition.

BACKGROUND

On 14 May 2004, applicants filed international application PCT/EP2004/559,421, which claimed priority of an earlier application filed 12 June 2003.

On 16 October 2006, applicants filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter accompanied by, *inter alia*, the basic national fee but no executed declaration of the inventors was submitted as such time.

On 21 February 2006, applicants submitted an executed declaration. However, in the "Full name of fourth inventor" line of the declaration pertaining to the fourth named inventor, the name SELBERT, Bettina appears; this last name did not appear in the international application, which was BURGHARDT, Bettina.

On 31 August 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date that the Inventor identified as Bettina Burghardt on International Application and as Bettina Seibert on the Declaration." It also stated that items set forth above must be submitted within two months from date of mailing or by 32 months from the priority date, whichever is later. Failure to properly respond will result in abandonment.

On 16 October 2006, applicants submitted a marriage license stipulating the change of name because of her marriage, however, no English translation was submitted of it. Also the signed statement of the one of the inventors was not in the filed submitted to the Office that explains the name change and is signed by her as outline in MPEP § 605.04(c).

DISCUSSION

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.

With respect item (1), the appropriate petition fee has been charged to the Deposit Account No. 13-0019.

With respect to item (2), petitioner has not provided with the petition a signed declaration by Bettina Seibert setting forth the procedure whereby the change of name was effected. Therefore, item (2) has not been satisfied.

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.

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 1.182". Failure to respond will result in the ABANDONMENT of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

02/21/2007 SBASHEIR 00000002 130019 10559421
Sale Ref: 00000002 DA#: 130019 10559421
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Richard A, Speer
MAYER, BROWN, ROWE & MAW LLP
P.O. BOX 2828
CHICAGO IL 60690-2828

In re Application of	:	DECISION ON
HEIMANN et al	:	
Application No.: 10/559,421	:	
PCT No.: PCT/EP2004/050810	:	
Int. Filing Date: 14 May 2004	:	PETITION UNDER
Priority Date: 12 June 2003	:	
Attorney Docket No.: 05144829	:	
For: FLOAT FOR A FILL LEVEL SENSOR	:	35 CFR 1.182

This decision is in response to petitioner's "RESPONSE TO DECISION ON PETITION UNDER 37 CFR 1.182... DESIGNATED/ELECTED OFFICE (DO/EO/US)" filed on 06 April 2007. The petition fee of $400.00 has been paid.

BACKGROUND

In a decision from this Office on 21 February 2007, the decision indicated that the application could not enter into the national stage at that time because item (2), had not been satisfied.

On 06 April 2007, applicants paid the required fee by credit card.

DISCUSSION

Items (1) and (2) have now been met.

With respect to item (2), an affidavit has been provided signed under both names- Bettina Burghardt (maiden name), and Bettina Seibert (married named), and setting forth the procedure whereby the change of name was effected. Therefore, item (2) has been satisfied.

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

CONCLUSION

The petition under 37 CFR §1.182 for change of name of inventor is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **21 February 2006.**

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

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19 DEC 2005

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Saliwanchik Lloyd & Saliwanchik
A Professional Association
P.O. Box 142950
Gainesville, FL 32614-2950

In re Application of :
BOZEMAN et al. :
Application No.: 10/559,422 : DECISION ON PETITION
PCT No.: PCT/US04/17959 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 07 June 2004 :
Priority Date: 05 June 2003 :
Attorney Docket No.: UF-363X :
For: AUTO-INJECTION DEVICES AND METHODS FOR INTRAMUSCULAR ADMINISTRATION OF MEDICATIONS

The petition to revive under 37 CFR 1.137(b) filed 07 December 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 twenty-month period is required.

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

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

Mail Date: 04/20/2010

Applicant	: Ji-hyun Lee	: DECISION ON REQUEST FOR
Patent Number	: 7620467	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/559,432	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **570** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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2033 K. STREET, NW
SUITE 800
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

In re Application of :
Kazuhisa Yamaoto, et al :
Application No. 10/559,460 : ON PETITION
Filed: December 5, 2005 :
Attorney Docket No. 2005_1832A :

This is a decision on the petition, filed April 17, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is DISMISSED AS MOOT.

A review of the record discloses that the issue fee, publication fee and corrected drawings were required on or before April 17, 2008, in response to the Notice of Allowance and Fee(s) Due and the Notice of Allowability mailed January 17, 2008. On March 17, 2008, the issue/publication fees were paid. On April 17, 2008, the present petition was filed.

Petitioner requests that the application be withdrawn from issue in order to be permitted to submit replacement drawings which were required by the Examiner in the Notice of Allowance dated January 17, 2008. The requisite drawings and a Request for Continued Examination (RCE) accompanied the petition.

Since the drawings, filed April 17, 2008, are filed within the period set by the Notice of Allowability mailed January 17, 2008, the accompanying petition under 37 CFR 1.313(c)(2) and the RCE under 37 CFR 1.114 are unnecessary. Accordingly, the $810 RCE filing fee and the $130 petition fee are being refunded to counsel's deposit account.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

Mail Date: 04/20/2010

Applicant	: Lijie Jin	: DECISION ON REQUEST FOR
Patent Number	: 7579003	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/559,471	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **458** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

Dickinson Wright PLLC
James E. Ledbetter, Esq.
International Square
1875 Eye Street, N.W., Suite 1200
Washington DC 20006

In re Application of :
Kenichi Miyoshi et al. :
Application No. 10/559,472 : DECISION ON PETITION
Filed: January 31, 2006 :
Attorney Docket No. **L9289.05193** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

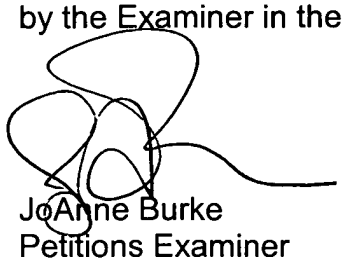
The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 12, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 13, 2009.

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

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

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

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business.



JoAnne Burke
Petitions Examiner
Office of Petitions

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13 JAN 2006

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

In re Application of DUMORTIER et al :
U.S. Application No.: 10/559,478 :
PCT Application No.: PCT/FR03/01852 :
Int. Filing Date: 18 June 2003 : DECISION
Priority Date Claimed: 19 June 2002 :
Attorney Docket No.: 0540-1042 :
For: METHOD FOR CONTROLLING THE :
SEALING OF A TANK ON AN AIRCRAFT :

This is in response to applicant's "Petition to Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b)" filed 05 December 2005.

BACKGROUND

On 18 June 2003, applicant filed international application PCT/FR03/01852, which claimed priority of an earlier France application filed 19 June 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 31 December 2003. The thirty-month period for paying the basic national fee in the United States expired on 19 December 2004.

International application PCT/FR03/01852 became abandoned as to the United States for failure to timely pay the basic national fee.

On 05 December 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 translation of the international application into English must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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27 APR 2007

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

In re Application of :
ZIEGLER et al. :
Application No.: 10/559,492 :
PCT No.: PCT/EP04/06050 :
Int. Filing: 04 June 2004 : DECISION ON PETITION
Priority Date: 05 June 2003 : UNDER 37 CFR 1.47(a)
Attorney Docket No.: 026032-4983 :
For: LINEAR INDICATOR :

This decision is issued in response to applicants' "Petition under 37 CFR 1.47(a)" filed 05 April 2007 to accept the application without the signature of joint inventor, Atanas Salabaschew. The $200 petition fee has been submitted.

BACKGROUND

On 04 June 2004, applicants filed international application PCT/EP04/06050 which claimed a priority date 05 June 2003. Pursuant to 37 CFR 1.495, the period for paying the basic national fee in the United States expired 30 months from the priority date, 05 December 2005.

On 05 December 2005, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and an application data sheet.

On 07 September 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 05 April 2007, applicants filed a petition under 37 CFR 1.47(a).

DISCUSSION

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

A review of the papers filed 05 April 2007 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor (Atanas Salabaschew) refused to sign, stated the last known address of the non-signing inventor (Atanas Salabaschew), and provided an acceptable declaration. Accordingly, all of the requirements of items (1), (2), (3), and (4) above have been satisfied.

CONCLUSION

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

The application has an international filing date of 04 June 2004 under 35 U.S.C. 363, and will be given a date of 05 April 2007 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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

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In re Application of	:	
Wang et al.	:	DECISION ON PETITION
Application No. 10/559,516	:	TO WITHDRAW
Filed: March 27, 2006	:	FROM RECORD
Attorney Docket No. 601-4	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 2, 2009.

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

A review of the file record indicates that the power of attorney to practitioners associated with Gibson & Dernier LLP was revoked by the assignees of the patent application on December 22, 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 the undersigned at 571-272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: KAPLAN GILMAN & PERGAMENT LLP
1480 ROUTE 9 NORTH
WOODBRIDGE, NJ 07095

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Kimihiro Mabuchi	: DECISION ON REQUEST FOR
Patent Number	: 7638052	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/559,544	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/29/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **774** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

08 JUN 2006

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Robert L. Stearns
HOWARD & HOWARD ATTORNEYS
39400 Woodward Avenue, Suite 101
Bloomfield Hills, MI 48304-5151

In re Application of :
EMMETT *et al* :
U.S. Application No.: 10/559,565 :
PCT No.: PCT/EP2004/003033 :
Int. Filing Date: 11 March 2004 : **DECISION**
Priority Date: 05 June 2003 :
Attorney's Docket No.: 71028-008 :
For: CYLINDER LIFT DETECTION DEVICE :
FOR COMPRESSED AIR DISK :
BRAKES :

Applicants' "Petition for Revival of an International Application for Patent Designating the United States Abandoned Unintentionally Under 37 CFR §1.137(b)" filed on 02 May 2006 is hereby **GRANTED** as follows:

The basic national fee, search fee, examination 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.

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

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

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Eugene Makeyev, et al.	:	
Application No. 10/559,576	:	DECISION ON PETITION
Filed: February 8, 2008	:	TO WITHDRAW
Attorney Docket No. 034144-0106	:	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 4, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Foley and Lardner, LLP has been revoked by the assignee of the patent application on January 6, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE
SUITE 1100
MILWAUKEE, WI 53202

05 SEP 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Anthony G. Fussner
Harness Dickey & Pierce
7700 Bonhomme
Suite 400
St Louis MO 63105

In re Application of	:	
RICHARDS et al.	:	DECISION ON
Application No.: 10/559,589	:	
PCT No.: PCT/GB2004/002352	:	PAPERS
Int. Filing Date: 01 June 2004	:	
Priority Date: 05 June 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 1600-000005/US/NP		:
For: GENERATOR	:	

This is a decision on the submission filed by applicants on 09 May 2006, which was accompanied by, *inter alia*, a declaration of inventors. The indication in this declaration that joint inventor Bernard John Sheridan is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 01 June 2004, applicants filed international application PCT/GB2004/002352, which designated the US and claimed a priority date of 05 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. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 December 2005.

On 02 December 2005, applicants filed a transmittal letter for entry into the national stage in the United States 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, and an assertion of small entity status.

On 15 March 2006, the United States Patent and Trademark Office (USPTO) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE U.S. DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable time period for reply.

On 09 May 2006, applicants filed the instant submission, which was accompanied by, *inter alia*, a declaration signed by two of the three inventors and signed by Margaret Sheridan as "legal representative" of deceased inventor Bernard John Sheridan. This declaration also lists the residence, citizenship and mailing address of Margaret Sheridan (on page 6 of declaration) and Bernard John Sheridan (on page 4 of declaration).

DISCUSSION

The submission filed 09 May 2006 has been reviewed and has been found in compliance with 37 CFR 1.42. However, the declaration filed 09 May 2006 is not in compliance with 37 CFR 1.497(a)-(b). There is a difference in names in the third-named inventor between the published international application (Anthony WITHAM) and the declaration of the inventor (Anthony WHITHAM). It is not clear if there was a typographical in the last name of the inventor as indicated in the international application (an acceptable explanation would be required), or if the inventor has changed his name (a petition under 37 CFR 1.182 (see MPEP § 605.04(c))) would be required), or if a change of inventorship is being made from the inventorship of the application as indicated in the international application (a petition under 37 CFR 1.497(d) would be required).

CONCLUSION

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

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file a proper response. Regarding the name of Mr. WITHAM, a proper response would be a new oath(s) or declaration(s) properly identifying the inventor and signed by the inventor, or an acceptable explanation of any typographical or transliteration error in the last name of the inventor as indicated in the international application if this is the case, or a petition under 37 CFR 1.182 (see MPEP § 605.04(c))) if the inventor has changed his name, or a petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application. Extensions of time under 37 CFR 1.136(a) are available.

Failure to timely file a proper response to this decision in a timely manner will result in abandonment of the application with regards to national stage prosecution in the United States.

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

Daniel Stemmer

Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

29 SEP 2006

UNITED STATES PATENT and TRADEMARK OFFICE

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Harness Dickey & Pierce
Suite 400 7700 Bonhomme
St Louis MO 63105

In re Application of	:	DECISION ON
COLIN MALCOLM RICHARDS et al	:	
PCT No.: PCT/GB2004/002353	:	
Application No.: 10/559,591	:	PAPERS FILED
Int. Filing Date: 01 June 2004	:	
Priority Date: 05 June 2003	:	
Attorney's Docket No.: 1600-000006/US/NP	:	UNDER 37 CFR 1.42
For: GENERATOR	:	

This is a decision on the declaration filed 09 May 2006, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 02 December 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). Applicants, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an executed oath or declaration was not provided at such time.

To satisfy the requirements of 35 U.S.C. 371(c)(4) that an oath or declaration of the inventor be submitted, applicant submitted on 09 May 2006 a declaration indicating that Margaret Sheridan is the legal representative of the deceased inventor, Bernard John SHERIDAN.

DISCUSSION

The declaration is accepted under 37 CFR 1.42 because it includes the citizenship and mailing addresses of Bernard John SHERIDAN and Margaret SHERIDAN (legal representatives) is also provided in the declaration of legal representative. Accordingly, applicants have satisfied the requirements under 37 CFR 1.42.

Thus, the requirements under 35 USC 371(c) are satisfied.

CONCLUSION

For the above reasons, the submission of the declaration under 37 CFR 1.42 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations until commencement of national stage processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is **09 May 2006**.

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

15 JUN 2006

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GENERAL MOTORS CORPORATION
LEGAL STAFF
MAIL CODE 482-C23-B21
P O BOX 300
DETROIT MI 48265-3000

In re Application of BOMMELMANN et al.
Application No.: 10/559,593
PCT No.: PCT/DE04/00322
Int. Filing: 20 February 2004
Priority Date: 04 June 2003
Attorney Docket No.: GP-307707
For: HINGE ASSEMBLY

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 12 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 this 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 and the required petition fee of $1500 was charged to applicant's deposit account per his authorization. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date is 12 June 2006.

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

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

08 SEP 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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David McEwing
P.O. Box 231324
Houston, TX 77223

In re Application of: RICHARD BLACKMORE :
Application No.: 10/559,601 :
PCT Application No.: PCT/US04/17794 : COMMUNICATION
Int. Filing Date: 04 June 2004 :
Priority Date Claimed: 04 June 2003 :
Attorney Docket No.: V-046 :
For: A Method and Apparatus of Curing Concrete Structures

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

BACKGROUND

On 04 June 2004, Applicant filed international application PCT/US04/17794, which designated the U.S. and claimed a priority date of 04 June 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 December 2005 (04 December 2005 falling on a Sunday).

On 02 December 2005, application papers, requesting national stage entry in the United States for PCT/US04/17794, were submitted by Mr. David McEwing, on behalf of Applicant. These papers were accompanied by the requisite basic national fee and were assigned U.S. application number 10/559,601.

On 05 December 2005, application papers requesting national stage entry in the United States for PCT/US04/17794 were submitted by a representative for Applicant from the law firm of Morris & Amatong, P.C. These papers were assigned U.S. application number 10/559,220.

DISCUSSION

The submission of two different sets of application papers to enter the national stage in the United States was improper. Therefore, a power of attorney appointing Mr. David McEwing, P.C. - which will serve as evidence that Applicants have selected said firm for representation during national stage processing under 35 U.S.C. 371 - is required.

CONCLUSION

The application is being held in the PCT Legal Office to await Applicant's reply. Applicant has TWO (2) MONTHS from the mail date of this decision within which to provide a proper reply. The time period set forth may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

30 OCT 2006

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

David McEwing
P.O. Box 231324
Houston, TX 77223

In re Application of
BLACKMORE, Richard
U.S. Application No.: 10/559,601
PCT No.: PCT/US04/17794
Int. Filing Date: 04 June 2004
Priority Date: 04 June 2003
Attorney Docket No.: V-046
For: A METHOD AND APPARATUS OF CURING CONCRETE STRUCTURES

DECISION

Applicants were requested to provide a power of attorney appointing Mr. David McEwing as representative in the communication from the Office of PCT Legal Administration dated 08 September 2006.

Applicants submitted a power of attorney on 18 September 2006 appointing practitioners associated with Customer Number 26328 as agents. Mr. McEwing is listed as the practitioner under this customer number. A "Statement Under 37 CFR 3.73(b)" signed by Mr. Allan F. Dow as President of the assignee, Verline Inc. was also provided.

The position of President is presumed to have the authority to sign for an organization. *See* MPEP § 324. An assignment from the inventor to Verline, Inc. was previously submitted.

This is an appropriate response to the 08 September 2006 decision. The above-captioned application will be forwarded to the DO/EO/US for further processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

05 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
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David McEwing
P.O. Box 231324
Houston, TX 77223

In re Application of :
BLACKMORE, Richard :
U.S. Application No.: 10/559,601 :
PCT No.: PCT/US2004/017794 :
Int. Filing Date: 04 June 2004 : **DECISION**
Priority Date: 04 June 2003 :
Attorney Docket No.: V-046 :
For: A METHOD AND APPARATUS OF :
CURING CONCRETE STRUCTURES :

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

BACKGROUND

On 02 December 2005, papers were filed to enter the national stage of PCT/US2004/017794. These papers were assigned U.S. application number 10/559,601. The papers were filed by David McEwing, on behalf of applicant.

On 05 December 2005, a duplicate national stage application for PCT/US2004/017794 was filed by another law firm, *i.e.*, MORRIS & AMATONG, P.C. The U.S. application number of the second set of papers was denoted as U.S. application No. 10/559,220.

On 14 August 2006, a communication was mailed in U.S. application No. 10/559,220 requesting a power of attorney appointing representatives from MORRIS & AMATONG, P.C. during national stage processing of PCT/US2004/017794. No response was received. A similar communication was mailed to Mr. McEwing on 08 September 2006 in the above-captioned application.

On 18 September 2006, a power of attorney appointing practitioners associated with Customer Number 26328 as agent was filed in the subject application.

DISCUSSION

As is evident from the above recited facts, two sets of papers to enter the national stage were submitted for international application PCT/US2004/017794. 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/US2004/017794 which will be denoted as U.S. Application No.10/559,601.

Applicants are advised that U.S. application No. 10/559,220 is no longer a valid U.S. National stage application. Mr. McEwing will remain the agent of record.

This application is being forwarded to Art Unit 1732 for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

cc: MORRIS & AMATONG, P.C.
102 Westheimer, Suite 360
Houston, TX 77042

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OFFICE OF PETITIONS

Olivia Tolan
British American Tobacco
R& D Centre
Patents Department
Regents Park Road, Mailbrook
Southhampton, SO15-8TL

In re Application of :
Gilbert Ossbahr :
Application No. 10/559,611 : DECISION ON PETITION
Filed: April 19, 2006 : TO WITHDRAW
Attorney Docket No. 82350 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed June 29, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Olivia Tolan is not associated with Customer Number 26288 nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Albihns Stockholm AB**
Box 5581, Linnegatan 2
SE-114 85 Stockholm; SWEDENn
Stockholm, Sweden

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/13/08

TO SPE OF : ART UNIT 3726

SUBJECT : Request for Certificate of Correction for Appl. No.: 10559640 Patent No.: 7351018 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: Approved

/Dana Ross/ AU 3725

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Joachim Stumpe	: DECISION ON REQUEST FOR
Patent Number	: 7612879	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/559,650	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

28 APR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

In re Application of	:	
HORIUCHI et al.	:	DECISION ON
Application No.: 10/559,669	:	
PCT No.: PCT/JP04/09577	:	PAPERS
Int. Filing Date: 30 June 2004	:	
Priority Date: 04 July 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 2005-1423A	:	
For: SUBSTRATE PROCESSING SYSTEM	:	

This is a decision on applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 06 December 2005, which was accompanied by a declaration of inventors. The indication in this declaration that joint inventor Takao Horiuchi is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 30 June 2004, applicants filed international application PCT/JP04/09577, which designated the United States and claimed a priority date of 04 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 13 January 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 04 January 2006.

On 06 December 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and a declaration of the inventors. The indication in this declaration that inventor Takao Horiuchi is deceased has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

The submission filed 06 December 2005 has been reviewed and has been found in compliance with 37 CFR 1.42. The declaration filed 06 December 2005is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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

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

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

Mail Date: 05/21/2010

Applicant	: Kimiaki Ando	: DECISION ON REQUEST FOR
Patent Number	: 7643462	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/559,685	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1011** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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SEP 23 2009

OFFICE OF PETITIONS

In re Application of
Piero Ciabatti
Application No. 10/559,692
Filed: December 5, 2005
Attorney Docket No. 1333-011

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 14, 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 January 5, 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 3751 for appropriate action by the Examiner in the normal course of business on the reply received July 14, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

Mail Date: 04/20/2010

Applicant	: Donald D Cooper	: DECISION ON REQUEST FOR
Patent Number	: 7625522	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/559,699	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **724** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, NY 10112-3800

In re Application of :
SAITO *et al* :
U.S. Application No.: 10/559,705 :
PCT No.: PCT/JP2004/008493 :
Int. Filing Date: 10 June 2004 : **DECISION**
Priority Date: 12 June 2003 :
Attorney's Docket No.: 03500.018190 :
For: RECORDING APPARATUS AND :
RECORDING METHOD :

Applicants' "Petition for Revival of an International Application for Patent Designating the United States Abandoned Unintentionally Under 37 CFR §1.137(b)" filed on 24 May 2006 is hereby **GRANTED** as follows:

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

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee pursuant to 37 CFR 1.492(h) is required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

30 MAY 2006
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Richard P. Silverman
Clariant Corporation
Intellectual Property Law Department
4000 Monroe Road
Charlotte, NC 28205

In re Application of	:	
Leinweber, et al.	:	
Application No.: 10/559,719	:	DECISION
PCT No.: PCT/EP04/05587	:	
Int. Filing Date: 25 May 2004	:	
Attorney's Docket No.: 2003DE428	:	
For: ALKOXYLATED, CROSS-LINKED POLYGLYCEROLS AND USE THEREOF AS BIODEGRADABLE DEMULSIFIER	:	

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

BACKGROUND

On 25 May 2004, applicants filed international application PCT/EP04/05587, which claimed priority of an earlier German 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. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 December 2005 (04 December 2005 fell on a Sunday, so applicants had until the next business day).

On 05 December 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, a translation of the application, a declaration and the requisite basic national fee as required by 35 U.S.C. 371(c). This application was assigned U.S. serial number 10/559,719.

DISCUSSION

A review of the application file reveals that the family name of one of the applicants is listed in the international application as "Grundner" while the family name is listed in the declaration as "Rausch." In that this is clearly more than a mere typographical error or phonetic misspelling of applicant's given name, a proper petition under 37 CFR 1.182 is required in order

to resolve this matter. Such a petition must be accompanied by the requisite petition fee of $400 as well as statements from the inventor and any other person having firsthand knowledge of the error. These statements must set forth the specific circumstances as to how and when the error was made and discovered, and must also set forth that the mistake was an inadvertent error without deceptive intent.

CONCLUSION

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 "Petition Under 37 CFR 1.182," and must include the requisite petition fee and an acceptable explanation of the facts as discussed above. Failure to file a proper response in a timely manner will result in ABANDONMENT of the application.

Extensions of time may be obtained under 37 CFR 1.136(a).

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

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
Fax: (571) 273-0459

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

11 AUG 2006

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Richard P. Silverman
Clariant Corporation
Intellectual Property Law Department
4000 Monroe Road
Charlotte, NC 28205

In re Application of	:	
Leinweber, et al.	:	
Application No.: 10/559,719	:	DECISION
PCT No.: PCT/EP04/05587	:	
Int. Filing Date: 25 May 2004	:	
Attorney's Docket No.: 2003DE428	:	
For: ALKOXYLATED, CROSS-LINKED POLYGLYCEROLS AND USE THEREOF AS BIODEGRADABLE DEMULSIFIER	:	

This is a decision in response to the "PETITION FOR CHANGE IN NAME OF INVENTOR UNDER 37 CFR 1.182" filed on 13 June 2006. The petition fee of $400 has been paid.

BACKGROUND

On 25 May 2004, applicants filed international application PCT/EP04/05587, which claimed priority of an earlier German 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. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 December 2005 (04 December 2005 fell on a Sunday, so applicants had until the next business day).

On 05 December 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, a translation of the application, a declaration and the requisite basic national fee as required by 35 U.S.C. 371(c). This application was assigned U.S. serial number 10/559,719.

On 30 May 2006, a decision was mailed to applicant indicating that the applicant listed in the international application as "Grundner" is listed in the declaration of this national stage filing as "Rausch." In that this was clearly more than a mere typographical error or phonetic misspelling of applicant's given name, a proper petition under 37 CFR 1.182 was required.

DISCUSSION

Applicant filed a proper petition along with the requisite $400 petition fee. Applicant also filed an "AFFIDAVIT IN SUPPORT OF PETITION TO CHANGE NAME OF INVENTOR" signed by Ms. Rausch.

CONCLUSION

The petition for changing the name of inventor Rausch is hereby **GRANTED**.

This application is being forwarded to national stage processing for preparation of the "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) and the according of a 35 U.S.C. 371 (a) (1), (2) and (4) date of 05 December 2005.

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
Fax: (571) 273-0459

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

Mail Date: 08/04/2010

Applicant	: Peter Hawes	: DECISION ON REQUEST FOR
Patent Number	: 7651550	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/559,734	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **651** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 DEC 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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Neil G. Miyamoto
Townsend and Townsend and Crew, LLP
Two Embarcadero Center, Eight Floor
San Francisco, CA 94111-3834

In re Application of :
LIEBER et al. :
Application No.: 10/559,752 : DECISION ON PETITION
PCT No.: PCT/US04/13717 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 03 May 2004 :
Priority Date: 01 May 2003 :
Attorney Docket No.: 016336-002700US :
For: CAPSID-MODIFIED ADENOVIRUS VECTORS AND METHOD OF USING THE SAME :

The petition to revive under 37 CFR 1.137(b) filed 06 December 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
Tel: (571) 272-3298
Fax: (571) 273-0459

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19 JAN 2006

Michael E. Whitham
Whitham, Curtis & Christofferson, PC
11491 Sunset Hills Road, Suite 340
Reston, VA 20190

In re Application of	:	DECISION ON
Christoph Leinemann	:	
Application No.: 10/559,761	:	
PCT No.: PCT/DE03/07219	:	
Int. Filing Date: 03 June 2004	:	
Priority Date: 06 June 2003	:	PETITION UNDER
Attorney's Docket No.: 03100261aa	:	
For: PERMANENTLY FIREPROOF FLAME GUARD	:	37 CFR 1.137(b)

This decision is in response to applicant's "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 07 December 2005.

BACKGROUND

On 03 June 2004, this international application was filed, claiming an earliest priority date of 06 June 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 06 December 2005. This international application became abandoned with respect to the United States at midnight on 06 December 2005 for failure to pay the required basic national fee.

On 07 December 2005, applicant filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied, inter alia, by the basic national fee, the petition fee and an executed declaration.

DISCUSSION

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

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

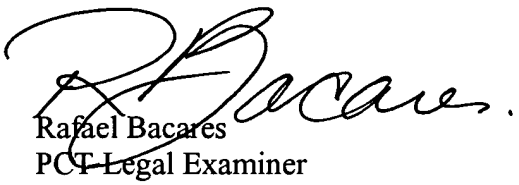
Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

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

The required fees of $130.00 (the surcharge under 1.492(e) for late filing of the declaration) and $130.00 (furnishing the English translation later than 30 months from the earlies priority date) for a total of $230.00 have been charged to Deposit Account No.: 50- 2041 as authorized in the transmitted letter submitted on 07 December 2005.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1),(c)(2), and (c)(4) date of this application is **07 December 2005.**



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

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OFFICE OF PETITIONS

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

In re Application of :

HAHN, Wolfgang et al. :
Application No. 10/559,776 : DECISION ON PETITION
Filed: December 07, 2005 : TO WITHDRAW
Attorney Docket No. **449122085800** : 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 01, 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 is an outstanding Office action mailed May 07, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **WOLFGANG HAHN**
LINDENALLEE 11
BERGFELDE, 16562
GERMANY

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

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/559,776	12/07/2005	Wolfgang Hahn	449122085800

CONFIRMATION NO. 8299

OC000000024942017

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 06/01/2007.

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

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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FULBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES CA 90071

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OFFICE OF PETITIONS

In re Application of :
MAISCH, Christof et al. :
Application No. 10/559,804 : DECISION ON PETITION
Filed: December 07, 2005 : TO WITHDRAW
Attorney Docket No. **LA-7688-102/10512640** : 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 08, 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 Gregory Wood on behalf of all attorneys of record who are associated with customer No. 28133. All attorneys/agents associated with the Customer Number 28133 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 at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed December 09, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **CHRISTOF MAISCH**
BADEN-BADENER STRASSE 15
GAGGENAU 76571
GERMANY

cc: **PROTEK FLORENZ MALSCH GMGB & CO.**
VIKTORIASTRASSE 58
GAGGENAU 76571
GERMANY

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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

Applicant	: Christof Maisch	: DECISION ON REQUEST FOR
Patent Number	: 7574838	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/559,804	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **255** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

27 DEC 2005

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

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3213

In re Application of	:	DECISION ON
Hasnne FENTROUCI	:	
Application No.: 10/559,811	:	
PCT No.: PCT/CH02/00018	:	
Int. Filing Date: 11 January 2002	:	PETITION UNDER
Priority Date: NA	:	
Attorney's Docket No.: Q-92005	:	
For: SHOWER PIPE INCORPORATING A TWO-WAY	:	
VALVE FOR A SHOWER PIPE	:	37 CFR 1.137(b)

This decision is in response to applicant's "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 08 December 2005.

BACKGROUND

On 08 December 2005, this international application was filed.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 11 July 2004. This international application became abandoned with respect to the United States at midnight on 11 July 2004 for failure to pay the required basic national fee.

On 08 December 2005, applicant filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee and the petition fee.

DISCUSSION

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

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

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1),(c)(2), and (c)(4) date of this application is **08 December 2005.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Mark B. Pepys	: DECISION ON REQUEST FOR
Patent Number	: 7659299	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/559,814	: 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 **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

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

Date Mailed : 10/14/09

Patent No. : 7367414 B2
Patent Issued : 05/06/08
Docket No. : **12699/28**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 05/12/09; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 756-1574

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/05/09

TO SPE OF : ART UNIT 3618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10559828 Patent No.: 7367414 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: Applicant has dropped integral symbol from Equation (4) and has changed equation (5) from being divided by Nm2 to be multiplied by Nm2.

Christopher Ellis 3618

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/10/09

TO SPE OF : ART UNIT 3618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10559828 Patent No.: 7367414

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 9C62-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: All changes submitted are acceptable._____

_____

_____

_____

_____

Paul Dickson_____ _3618_

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

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MAY 0 5 2006
OFFICE OF PETITIONS

In re Application of	:	
Davis, Edwin D.	:	
Application No. 10/559,829	:	ON PETITION
Filed: December 6, 2005	:	
Attorney Docket No. T2191-908028US01	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 6, 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 copy of the applicant's driver's license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206.

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

This matter is being referred to the Technology Center Art Unit 2834 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-2-07

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/559829 Patent No.: 7129614

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

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 check Drawings

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

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Applicant has changed the ABSTRACT and corrected spelling only. TMB

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2834
Art Unit

18 JAN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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00513
WENDEROTH, LIND & PONACK, LLP
2033 K Street, N.W.
Suite 800
Washington, DC 20008-1021

In re Application of :
MATSUDA *et al* :
Application No.: 10/559,835 :
PCT No.: PCT/JP04/00630 :
Int. Filing Date: 23 January 2004 : **DECISION**
Priority Date: 06 June 2003 :
Attorney Docket No.: 2005_1807A :
For: CELL-CONTAINING PREPARATIONS :

This decision is in response to applicants' "Request for Corrected Filing Receipt" filed via facsimile on 14 May 2007 which is treated as a petition under 37 CFR 1.181 and is hereby **GRANTED** as follows:

Applicants request that the "filing or 371(c) date" for the subject application be amended to 08 March 2006. A review of the subject application shows that applicants submitted a declaration in compliance with 37 CFR 1.497(a) and (b) on 08 March 2006. Thus, the "Filing or 371(c) Date" of "12/06/2005" recorded on the filing receipt is incorrect. *See* § 1893.03(b) MPEP. This date should be 08 March 2006.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and corrected filing receipt indicating completion of all 35 U.S.C. 371 requirements of 08 March 2006.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 4/22/2010
Patent No. : 7,520,943 B2
Serial No. : 10/559,844
Inventor(s) : Ishikawa et al.
Issue Date : April 21, 2009
Title : **STEEL PLATE AND WELDED STEEL TUBE EXHIBITING LOW YIELD RATIO, HIGH STRENGTH AND HIGH TOUGHNESS**
Doc./File No. : **JFE-05-1735**

Re: Reconsideration for Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322.

Respecting the alleged error(s) in your request, inspection of the file of the application for the patent reveals that column 23, table 2, no. 13, in the patent, is/are printed in accordance with the record in the Patent and Trademark Office, as passed to issued by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provision of 1.322. Therefore, no correction is in order here.

In view of the foregoing, your request for certificate of correction is hereby denied.

However, further consideration will be given these matters, upon receipt of a request for **Reconsideration** certificate of correction (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892 w/references considered by examiner, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (703) 756-1590
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch
ernest.white@uspto.gov

IP GROUP OF DLA PIPER LLP (US)
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA PA 19103

ecw

UNITED STATES PATENT AND TRADEMARK OFFICE

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

03 JAN 2006

Philip E. Hansen
Heslin Rothenberg Farley & Mesiti, P.C.
5 Columbia Circle
Albany, NY 12203

In re Application of :
CRIVELLO :
Application No.: 10/559,847 :
PCT No.: PCT/US04/11607 : DECISION ON PETITION
Int. Filing Date: 16 April 2004 :
Priority Date: 16 April 2003 : UNDER 37 CFR 1.137(b)
Atty. Docket No.: 0094.077A :
For: SILOXANE MONOMERS AND OLIGOMERS :

The petition to revive under 37 CFR 1.137(b) filed 07 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventor is required.

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

02 OCT 2006

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BARDMESSER LAW GROUP, P.C.
910 17TH STREET, N.W.
SUITE 800
WASHINGTON DC 20006

In re Application of	:	
INGMAN, Dov, et al.	:	
Application No.: 10/559,850	:	DECISION
PCT No.: PCT/US03/18688	:	
Int. Filing Date: 13 June 2003	:	ON REQUEST UNDER
Priority Date: None	:	
Attorney's Docket No.: 2387.0020000	:	37 CFR 1.497(d)
For: MOISTURE-RESISTANT NANO-PARTICLE MATERIAL AND ITS APPLICATIONS	:	

This decision is in response to "Request to Add Inventors in a Nonprovisional Patent Application," filed on 25 May 2006. It has been treated as a request under 37 CFR 1.497(d).

BACKGROUND

On 13 June 2003, applicant filed international application PCT/US03/18688. The deadline for entry into the national stage in the United States was midnight on 13 December 2005.

On 07 December 2005, applicant filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration of the inventors.

On 28 March 2006, the Office mailed Notification of Missing Requirements, indicating that the declaration listed an inventor not listed on the international application and requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the search fee, examination fee or the oath or declaration.

On 25 May 2006, applicant filed the instant request.

DISCUSSION

Applicants file this request to add Andrew Glista 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), (2) and (3) have been satisfied. Applicants provided a statement by Glista, the processing fee and the consent of the assignee.

The declaration filed on 07 December 2005 in combination with this request satisfy 37 CFR 1.497(a)-(b). The declaration filed on 25 May 2006 would not have as it appears it was pieced together from two separately executed declarations to form a single composite declaration. While it is acceptable for inventors to execute separate copies of the oath or declaration, the complete copy as executed by the inventors must be submitted. The surcharge for late filing of the search fee, examination fee or oath or declaration will be refunded.

CONCLUSION

For the above reasons, applicant's request under 37 CFR 1.497(d) 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, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **07 December 2005**.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

Refund Ref:
10/04/2006 0030034951

Credit Card Refund Total: $65.00

VISA....: XXXXXXXXXXXX4855

10/04/2006 SBASHEIR 00000006 10559850
01 FC:1464 130.00 OP

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GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101

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SEP 10 2007

OFFICE OF PETITIONS

In re Application of :
Ali Nilfuroshan :
Application No. 10/559,860 : DECISION ON PETITION
Filed: December 6, 2005 : TO WITHDRAW
Attorney Docket No. RCVR-1043297 : 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 20, 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 Brooks Gifford, III on behalf of all attorneys of record who are associated with customer No. 27111.

All attorneys/agents associated with the Customer Number 27111 have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed December 6, 2005 does not include the reel and frame number or a proper chain of title.

There is an outstanding Office action mailed June 22, 2007 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ALI NILFORUSHAN
1413 SAN ELIJO AVENUE
CARDIFF, CA 92007

cc: FISH & ASSOCIATES, PC
2603 MAIN STREET
SUITE 1050
IRVINE, CA 926314

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/559,860	12/06/2005	Ali Nilfuroshan	RCVR-1043297

CONFIRMATION NO. 7437

OC000000025728320

27111
GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101

Date Mailed: 09/07/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/20/2007.

- 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

CATALYST LAW GROUP, APC
9710 SCRANTON ROAD, SUITE S-170
SAN DIEGO, CA 92121

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SEP 10 2007

OFFICE OF PETITIONS

In re Application of :
Ali Nilforushan :
Application No. 10/559,860 : DECISION ON PETITION
Filed: December 6, 2005 : TO WITHDRAW
Attorney Docket No. 8048-003-US : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed December 19, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Catalyst Law Group, APC has been revoked by the applicant of the patent application on April 13, 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: GORDON & REES, LLP
101 W. BROADWAY
SUITE 2000
SAN DIEGO, CA 92101

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

Mail Date: 04/28/2010

Applicant	: Stefan Haaks	: DECISION ON REQUEST FOR
Patent Number	: 7606629	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/559,865	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **69** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

FEB 22 2007

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MARTIN MOYNIHAN
PRTSI INC
P O BOX 16446
ARLINGTON VA 22215

In re Application of	:
Nichael Fainzilber et al	:
Serial No.: 10/559,871	: PETITION DECISION
Filed: May 2, 2006	:
Attorney Docket No.: 30750	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed January 16, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable. However, the amendment to the specification should be submitted (or resubmitted) as a separate document, not as part of the petition.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

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

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CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET NW, SUITE 1100
WASHINGTON, DC 20006

MAILED

OCT 28 2009

OFFICE OF PETITIONS

In re Application of :
Tadashi MARUMOTO :
Application No. 10/559,874 : DECISION GRANTING PETITION
Filed: February 15, 2007 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **21581-00462-US** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 27, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 15, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1794 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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GE HEALTHCARE, INC.
IP DEPARTMENT 101 CARNEGIE CENTER
PRINCETON, NJ 08540-6231

Mail Date: 04/21/2010

Applicant	: Harry John Wadsworth	: DECISION ON REQUEST FOR
Patent Number	: 7642373	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/559,879	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **516** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BASF Performance Products LLC
Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591

Mail Date: 04/20/2010

Applicant	: Michael Singh	: DECISION ON REQUEST FOR
Patent Number	: 7642298	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/559,892	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **743** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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25 AUG 2006

Thomas Schneck
SCHNECK & SCHNECK
P.O. Box 2-E
San Jose, CA 95109-0005

In re Application of:	:	
FERRELL, Gary W., et al.	:	DECISION REGARDING
U.S. Application No.: 10/559,894	:	SUBMISSION UNDER 37 CFR
PCT No.: PCT/EP2004/051020	:	1.42 AND PETITION UNDER
Int'l Filing Date: 03 June 2004	:	37 CFR 1.47(a)
Priority Date: 12 June 2003	:	
Attorney's Docket No.: SEZ-022	:	
For: UNIFORM CAVITATION FOR PARTICLE REMOVAL	:	

This decision is issued in response to applicants' "Response To Notification Of Missing Requirements" filed 09 June 2006 which included a declaration executed on behalf of deceased inventor Gary W. FERRELL by his legal representative Frances FERRELL, considered herein as a submission under 37 CFR 1.42, and a "Petition Under 37 CFR 1.47(a)" seeking acceptance of the declaration without the signature of non-signing inventor Jagjit S. RATRA. Deposit Account No. 19-0590 will be charged the required $200 petition fee for the petition under 37 CFR 1.47(a) (no petition fee is required for consideration of the submission under 37 CFR 1.42).

BACKGROUND

On 03 June 2004, applicants filed international application PCT/EP2004/051020. The international application claimed a priority date of 12 June 2003, and it designated the United States. On 23 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., 12 December 2005.

On 06 December 2005, applicants filed a Transmittal Letter for entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee.

On 10 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 09 June 2006, applicants filed a response to the Notification Of Missing Requirements (with required one-month extension fee). The response included payment of the required surcharge, a declaration executed by one of the three named inventors and by the legal

representative of the deceased inventor (considered below under 37 CFR 1.42), and a petition under 37 CFR 1.47(a) (also considered below). The petition seeks acceptance of the application without the signature of the remaining inventor, Jagjit S. RATRA, whom applicants assert has refused to sign the application documents.

DISCUSSION

1. Submission Under 37 CFR 1.42:

37 CFR 1.42 states in part:

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

37 CFR 1.497(b)(2) states:

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

Pursuant to 37 CFR 1.497(b)(2), the declaration must provide the citizenship, mailing address, and residence information for both the deceased inventor and the legal representative.

Here, the declaration filed by applicants on 09 June 2006 specifically identifies Frances FERRELL as the "legal representative" of deceased inventor Gary W. FERRELL, and it includes separate citizenship, mailing address, and residence information for the deceased inventor and the legal representative. Accordingly, the declaration complies with the requirements of 37 CFR 1.42 and 1.497(b)(2) with respect to the signature provided on behalf of the deceased inventor.

2. Petition Under 37 CFR 1.47(a):

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration 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 have authorized a charge to Deposit Account No. 19-0590 for required fees. Item (1) is therefore satisfied.

The petition sets forth the last known address of the inventor. Accordingly, item (2) is therefore satisfied.

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

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

Here, applicants have filed a declaration executed by one of the three inventors, John F. SCHIPPER, and by the legal representative of deceased inventor Gary W. FERRELL. The declaration includes an unsigned signature block for non-signing inventor Jagjit S. RATRA. This declaration can be treated as having been executed by the available inventor and the legal representative on their own behalf and on behalf of the non-signing inventor (the declaration is properly executed on behalf of the deceased inventor under 37 CFR 1.42, as discussed above). Item (3) is therefore satisfied.

Regarding item (4), the petition asserts that the non-signing inventor has refused to execute the declaration. Before a refusal to execute the application can be claimed, section 409.03(d) of the MPEP requires that the non-signing inventor be provided with a copy of the complete application, including specification, drawings and claims. The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made."

Here, the evidence submitted to demonstrate Jagjit S. RATRA's refusal to execute the application papers is contained in the "Statement Of Facts" provided by Thomas SCHNECK, and the exhibits thereto. These materials provide the required firsthand statement confirming the delivery to the non-signing inventor of a request for signature, accompanied by copy of the complete application, and the non-signing inventor's failure to provide the signed declaration requested. Item (4) is therefore satisfied.

Based on the above, applicants have satisfied all the requirements for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

Applicants' request for status under 37 CFR 1.42 with respect to the declaration executed on behalf of deceased inventor Gary W. FERRELL by his legal representative, Frances FERRELL, is **GRANTED**.

The petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted under 37 CFR 1.47(a) without the signature of inventor Jagjit S. RATRA.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at the last known address set forth in the petition, and notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) is 09 June 2006.

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

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25 AUG 2006

Jagjit S. RATRA
1454 Inwood Court
Campbell, CA 95008

In re Application of: FERRELL, Gary W., et al.
U.S. Application No.: 10/559,894
PCT No.: PCT/EP2004/051020
Int'l Filing Date: 03 June 2004
Priority Date: 12 June 2003
Attorney's Docket No.: SEZ-022
For: UNIFORM CAVITATION FOR PARTICLE REMOVAL

Dear Mr. RATRA:

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:
Thomas Schneck
SCHNECK & SCHNECK
P.O. Box 2-E
San Jose, CA 95109-0005

11 APR 2006

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Robert Shaddox
WINSTEAD SECHREST & MINNICK
P.O. Box 50784
Dallas, TX 75201

In re Application of :
KHABASHESKU *et al* :
Application No.: 10/559,905 :
PCT No.: PCT/US2004/019188 :
Int. Filing Date: 16 June 2004 :
Priority Date: 16 June 2003 : **DECISION**
Attorney Docket No.: 11321-P066WOUS :
For: FABRICATION OF CARBON :
NANOTUBE REINFORCED EPOXY :
POLYMER COMPOSITES USING :
FUNCTIONALIZED CARBON :
NANOTUBES :

This is a decision on the declaration filed in the international application pursuant to PCT Rule 4.17(iv) which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 08 December 2005, applicants filed papers to enter the national stage of PCT/US2004/019188 which was accompanied by, *inter alia*, a copy of a declaration submitted pursuant to PCT Rule 4.17(iv) which was executed by four of the five named inventors and a legal representative on behalf of a deceased inventor.

DISCUSSION

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

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

The declaration filed pursuant to PCT Rule 4.17(iv) in the international application is signed by Mary Lou Margrave as legal representative of deceased inventor John L. Margrave. The declaration identifies each inventor and the country of citizenship of each inventor. In addition, the citizenship, residence and address of the legal representative are recorded on the supplemental declaration as required by 37 CFR 1.497(b)(2).

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 16 June 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 08 December 2005.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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OFFICE OF PETITIONS

Robert C Shaddox
Winstead Sechrest & Minick
P O box 50784
Dallas, TX 75201

In re Patent of Khabashesku et al.	:	DECISION ON REQUEST
Patent No. 7,601,421	:	FOR RECONSIDERATION OF
Issue Date: October 13, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/559,905	:	AND NOTICE OF INTENT TO
Filing Date: December 8, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. 11321/P066WOUS	:	CORRECTION

This is a decision on the petition filed December 14, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by eight hundred twenty-seven (827) 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-seven (827) days is **GRANTED**.

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-seven (827)** 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.	:	7,601,421 B2
ISSUE DATE	:	October 13, 2009
INVENTOR(S)	:	Khabashesku et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 518 days.

Delete the phrase "by 518 days" and insert - by 827 days--

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1109 MCKAY DRIVE
SAN JOSE CA 95131

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OCT 01 2009

OFFICE OF PETITIONS

In re Application of :
Christopher Speirs et al. :
Application No. 10/559,914 : DECISION ON PETITION
Filed: June 15, 2006 :
Attorney Docket No. **DE030204US1** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 23, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 24, 2009

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

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

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. 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 JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 2629 for appropriate action by the Examiner in the normal course of business.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Mark A. Wilson
PMB: 348, 2530 Berryessa Road
San Jose, CA 95132

05 MAR 2007

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Martin D Moynihan
PRTSI Inc
P O Box 16446
Arlington VA 22215

In re Application of	:	
LONAI (deceased)	:	DECISION ON
Application No.: 10/529,929	:	
PCT No.: PCT/IL2004/000489	:	PAPERS
Int. Filing Date: 09 June 2004	:	
Priority Date: 11 June 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 30800	:	
For: NEURAL STEM CELLS AND METHODS OF GENERATING AND UTILIZING SAME	:	

This is a decision on applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 02 May 2006, which was accompanied by a declaration of the inventors. The indication in this declaration that joint inventor Peter Lonai is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 09 June 2004, applicants filed international application PCT/IL2004/000489, which designated the United States and claimed a priority date of 11 June 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 December 2005 (11 December 2005 being a Sunday).

On 08 December 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and an assertion of small entity status.

On 03 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration 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.

Copied from 10529929 on 08/29/2007

On 02 May 2006, applicants filed the instant submission which was accompanied by, *inter alia*, a declaration of the inventor and the surcharge under 37 CFR 1.492(h). The indication in the declaration that inventor Peter Lonai is deceased has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

The submission filed 02 May 2006 has been reviewed and has been found in compliance with 37 CFR 1.42. The declaration filed 02 May 2006 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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

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

Copied from 10529929 on 08/29/2007

0 8 JAN 2007

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

In re Application of	:	
SILLIKENS	:	
Application No.: 10/559,949	:	DECISION ON PETITION
PCT No.: PCT/EP2004/002553	:	
Int. Filing Date: 08 March 2004	:	UNDER
Priority Date: 10 June 2003	:	
Attorney Docket No.: 9250-161	:	37 CFR 1.497(d)
For: NUCLEIC ACID SEQUENCES THAT CAN BE USED AS PRIMERS AND PROBES IN THE AMPLIFICATION AND DETECTION OF SARS CORONAVIRUS	:	

This decision is in response to applicants' "REQUEST TO CORRECT INVENTORSHIP UNDER 37 CFR 1.497(d)" filed in the United States Patent and Trademark Office (USPTO) on 22 December 2006.

BACKGROUND

On 08 March 2004, applicants filed international application PCT/EP2004/002553, which designated the United States and claimed a priority date of 10 June 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 23 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 December 2005 (10 December 2005 being a Saturday).

On 09 December 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 23 October 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 22 December 2006, applicants filed the instant "PETITION TO CORRECT INVENTORSHIP UNDER 37 CFR 1.497(d)". The petition was accompanied by a statement by Marlieke Overdijk, a statement by Saskia van de Laar, a consent of assignee statement, a declaration of inventors, and the surcharge under 37 CFR 1.492(h).

DISCUSSION

37 CFR 1.497(d), provides:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:
>
> (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in Sec. 1.17(i); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
>
> (4) Any new oath or declaration required by paragraph (f) of this section.

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

Item (3) has not been satisfied. A showing under 3.73(b) has not been provided. See MPEP § 324, item II. Also, the person signing the consent of assignee statement does not have apparent authority to sign on behalf of the legal entity. See MPEP § 324, item V.

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

Also, it is noted that the declaration of inventors filed 22 December 2006 is not in compliance with 37 CFR 1.63(a)(2). The full name of P.T.G. Sillekens (family name and at least one given name together with ay initial) has not been set forth. See MPEP § 605.04(b).

CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED** without prejudice for the reasons set forth above.

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

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

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

01/08/2007 SBASHEIR 00000008 10559949
01 FC:1464 130.00 OP

28 MAR 2007

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

SUGHRUE MION, PLLC
2100 MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

In re Application of	:	
SILLIKENS	:	
Application No.: 10/559,949	:	SUPPLEMENTAL
PCT No.: PCT/EP2004/002553	:	
Int. Filing Date: 08 March 2004	:	DECISION
Priority Date: 10 June 2003	:	
Attorney Docket No.: 9250-161	:	
For: NUCLEIC ACID SEQUENCES THAT CAN BE USED AS PRIMERS AND PROBES IN THE AMPLIFICATION AND DETECTION OF SARS CORONAVIRUS	:	

A decision was mailed 08 January 2007 on applicants' petition filed 22 December 2006. However, the decision was returned to the USPTO as undeliverable on 23 January 2007. (It appears from the copy of the returned envelope that applicant's address was not visible.) The decision is being re-mailed herewith by enclosing a copy of the original decision with this Supplemental Decision. The time limit set forth in the enclosed decision runs from the mailing date of this Supplemental Decision rather than the mailing date of the original decision.

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

Enc.: copy of decision mailed 08 January 2007

0 8 JAN 2007

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P.O. Box 1450
Alexandria, VA 22313-1450
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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

In re Application of	:	
SILLIKENS	:	
Application No.: 10/559,949	:	DECISION ON PETITION
PCT No.: PCT/EP2004/002553	:	
Int. Filing Date: 08 March 2004	:	UNDER
Priority Date: 10 June 2003	:	
Attorney Docket No.: 9250-161	:	37 CFR 1.497(d)
For: NUCLEIC ACID SEQUENCES THAT CAN BE USED AS PRIMERS AND PROBES IN THE AMPLIFICATION AND DETECTION OF SARS CORONAVIRUS	:	

This decision is in response to applicants' "REQUEST TO CORRECT INVENTORSHIP UNDER 37 CFR 1.497(d)" filed in the United States Patent and Trademark Office (USPTO) on 22 December 2006.

BACKGROUND

On 08 March 2004, applicants filed international application PCT/EP2004/002553, which designated the United States and claimed a priority date of 10 June 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 23 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 December 2005 (10 December 2005 being a Saturday).

On 09 December 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 23 October 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 22 December 2006, applicants filed the instant "PETITION TO CORRECT INVENTORSHIP UNDER 37 CFR 1.497(d)". The petition was accompanied by a statement by Marlieke Overdijk, a statement by Saskia van de Laar, a consent of assignee statement, a declaration of inventors, and the surcharge under 37 CFR 1.492(h).

DISCUSSION

37 CFR 1.497(d), provides:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:
>
> (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in Sec. 1.17(i); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
>
> (4) Any new oath or declaration required by paragraph (f) of this section.

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

Item (3) has not been satisfied. A showing under 3.73(b) has not been provided. See MPEP § 324, item II. Also, the person signing the consent of assignee statement does not have apparent authority to sign on behalf of the legal entity. See MPEP § 324, item V.

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

Also, it is noted that the declaration of inventors filed 22 December 2006 is not in compliance with 37 CFR 1.63(a)(2). The full name of P.T.G. Sillekens (family name and at least one given name together with ay initial) has not been set forth. See MPEP § 605.04(b).

CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED** without prejudice for the reasons set forth above.

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

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

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

01/08/2007 SBASHEIR 00000008 10559949
01 FC:1464 138.00 OP

29 MAY 2007
UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

In re Application of	:	
SILLIKENS	:	
Application No.: 10/559,949	:	DECISION ON PETITION
PCT No.: PCT/EP2004/002553	:	
Int. Filing Date: 08 March 2004	:	UNDER
Priority Date: 10 June 2003	:	
Attorney Docket No.: 9250-161	:	37 CFR 1.497(d)
For: NUCLEIC ACID SEQUENCES THAT CAN BE USED AS PRIMERS AND PROBES IN THE AMPLIFICATION AND DETECTION OF SARS CORONAVIRUS	:	

This decision is in response to applicants' renewed petition under 37 CFR 1.497(d) filed in the United States Patent and Trademark Office (USPTO) on 08 May 2007.

BACKGROUND

On 08 March 2004, applicants filed international application PCT/EP2004/002553, which designated the United States and claimed a priority date of 10 June 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 23 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 December 2005 (10 December 2005 being a Saturday).

On 09 December 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 23 October 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 22 December 2006, applicants filed a "PETITION TO CORRECT INVENTORSHIP UNDER 37 CFR 1.497(d)". The petition was accompanied by a statement by Marlieke Overdijk, a statement by Saskia van de Laar, a consent of assignee statement, a declaration of inventors,

and the surcharge under 37 CFR 1.492(h).

On 08 January 2007, a decision was mailed dismissing applicants' petition under 37 CFR 1.497(d). Specifically, it was noted that a showing under 3.73(b) had not been provided and that the person signing the consent of assignee statement did not have apparent authority to sign on behalf of the legal entity.

On 23 January 2007, the decision was returned to the USPTO as undeliverable. (It appears from the copy of the returned envelope that applicant's address was not visible.)

On 28 March 2007, a Supplemental decision was mailed which included a copy of the original decision. It was indicated that the time limit ran from the mailing date of the Supplemental Decision rather than the mailing date of the original decision.

On 08 May 2007, applicants filed the instant renewed petition under 37 CFR 1.497(d) which was accompanied by a "CONSENT OF ASSIGNEE TO CORRECTION OF INVENTORSHIP UNDER 37 CFR 1.48(a) [sic] AND STATEMENT UNDER 37 CFR 3.73(b)".

DISCUSSION

37 CFR 1.497(d), provides:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:
>
> (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in Sec. 1.17(i); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
>
> (4) Any new oath or declaration required by paragraph (f) of this section.

As noted in the supplemental decision mailed 28 March 2007, applicants have satisfied items (1) and (2) and item (4) is not required.

Item (3) has now been satisfied as well.

Declaration of Inventors

While the declaration of inventors filed 22 December 2006 is in compliance with 37 CFR 1.497(a)-(b), it is noted that it is not in compliance with 37 CFR 1.63(a)(2). The full name of P.T.G. Sillekens (family name and at least one given name together with any initial) has not been set forth. See MPEP § 605.04(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 P.T.G. Sillekens, Marlieke Overdijk, and Saskia van de Laar as inventors.

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

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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19 JAN 2006

Peng Chen
Morrison & Foerster LLP
12531 High BluffDrive #100
San Diego, CA 92130-2040

In re Application of	:	DECISION ON
Shengce TAO et al	:	
Application No.: 10/559,951	:	
PCT No.: PCT/CN2003/000335	:	
Int. Filing Date: 09 May 2003	:	
Priority Date: NA	:	PETITION UNDER
Attorney's Docket No.: 514572001800	:	
For: METHODS AND COMPOSITIONS FOR	:	
OPTIMIZING MULTIPLEX PCR PRIMERS	:	37 CFR 1.137(b)

This decision is in response to applicant's "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 09 December 2005.

BACKGROUND

On 09 May 2003, this international application was filed. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 09 November 2005. This international application became abandoned with respect to the United States at midnight on 09 November 2005 for failure to pay the required basic national fee.

On 09 December 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, inter alia, by the basic national fee, the petition fee and an executed declaration.

DISCUSSION

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

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

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800

In re Application of	:	DECISION ON REQUEST TO
Aya IMADA et al	:	PARTICIPATE IN PATENT
Application No. 10/559966	:	PROSECUTION HIGHWAY
Filed: December 8, 2005	:	PILOT PROGRAM AND PETITION
Attorney Docket No. 03500.017755	:	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) and the preliminary amendment, filed November 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 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

FITZPATRICK, CELLA, HARPER & SCINTO

30 Rockefeller Plaza
New York, NY 10112-3801
(212) 218-2100

Facsimile:(212) 218-2200

FACSIMILE COVER SHEET

TO:	The Office of the Commissioner of Patents Attn: MAGDALEN GREENLIEF
FROM:	Peter Saxon
RE:	U.S. Pat. Appln. 10/559,966 Our Ref.: 03500.017755
FAX NO.:	571-273-0125
DATE:	November 28, 2007 **NO. OF PAGES:** *(including cover page)*
TIME:	**SENT BY:**

MESSAGE

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. 1-571-273-0125 on November 28, 2007
(Date of Facsimile Transmission)

LEONARD P. DIANA
~~Peter Saxon~~
(Name of Attorney for Applicant)

Signature — November 28, 2007 Date of Signature

IF YOU DO NOT RECEIVE ALL THE PAGES
PLEASE CALL 212-218-2100 AS SOON AS POSSIBLE.

Note: We are transmitting from a Canon Model FAX-L770 (compatible with any Group I, Group II or Group III machine).

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03500.017755. PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	:	Examiner: NYA
AYA IMADA ET AL.	)	
	:	Art Unit: 1763
Application No.: 10/559,966	)	
	:	Confirmation No.: 6543
Filed: December 8, 2005	)	
	:	
For: PROCESS FOR PRODUCING STRUCTURE, FUNCTIONAL STRUCTURE, AND MAGNETIC RECORDING MEDIUM	) :	November 28, 2007

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

LETTER SUBMITTING PAPERS UNDER PPH PILOT PROGRAM

Sir:

Applicants hereby request accelerated examination of the above-identified application under the Patent and Trademark Office's Patent Prosecution Highway (PPH) Pilot Program based on allowed claims of a Japanese application from which the present application claims priority under 35 U.S.C. § 119. Submitted herewith are the following documents for the accelerated examination:

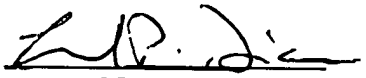
1) Request for Participation in PPH Pilot Program (Form PTO/SB/20)
2) Notification of Reasons for Refusal (in Japanese)
3) English translation of Notification of Reasons for Refusal
4) Japanese final (allowed) claims (in Japanese)
5) English translation of Japanese final (allowed) claims
6) Verification of translations
7) Preliminary Amendment

The prior-art documents cited in the mentioned Japanese counterpart application have already been cited in a previously filed Information Disclosure Statement.

While it is not believed that a separate Petition to make special is required and that the Request (document 1) fulfills the requirements for such a Petition, should the Office determine that a separate Petition is required, this Letter should be treated as a Petition to make the application special under the Office's PPH Pilot Program. As set forth in the Request, the Petition fee should be charged to Deposit Account 50-3939.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,



Leonard P. Diana
Attorney for Applicants
Registration No.: 29,296

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
Facsimile: (212) 218-2200

FCHS_WS 1758186v1

PTO/SB/20 (01-07)
Approved for use through 12/31/2008. OMB 0651-0058
U.S. Patent and Trademark Office; U.S DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR PARTICIPATION IN THE PATENT PROSECUTION HIGHWAY(PPH) PILOT PROGRAM BETWEEN THE JPO AND THE USPTO

Application No.:	10/559,966	First Named Inventor:	Aya Imada
Filing Date:	December 8, 2005	Attorney Docket No.:	03500.017755
Title of the Invention:	PROCESS FOR PRODUCING STRUCTURE, FUNCTIONAL STRUCTURE, AND MAGNETIC RECORDING MEDIUM		

THIS REQUEST FOR PARTICIPATION IN THE PPH PILOT PROGRAM MUST BE FAXED TO: THE OFFICE OF THE COMMISSIONER FOR PATENTS AT 571-273-0125 DIRECTED TO THE ATTENTION OF MAGDALEN GREENLIEF

APPLICANT HEREBY REQUESTS PARTICIPATION IN THE PATENT PROSECUTION HIGHWAY (PPH) PILOT PROGRAM AND PETITIONS TO MAKE THE ABOVE-IDENTIFIED APPLICATION SPECIAL UNDER THE PPH PILOT PROGRAM.

The above-identified application validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more corresponding JPO application(s).

The JPO application number(s) is/are: (1) Japan 2003-163852

The filing date of the JPO application(s) is/are: (1) 06/09/2003

I. **List of Required Documents:**

a. **A copy of all JPO office actions (excluding "Decision to Grant a Patent") in the above-identified JPO application(s).**

☒ Is attached.

☐ Is available via Dossier Access System. Applicant hereby requests that the USPTO obtain these documents via the Dossier Access System. Claims granted without refusal by JPO.

b. **A copy of all claims which were determined to be patentable by the JPO in the above-identified JPO application(s).**

☒ Is attached.

☐ Is available via Dossier Access System. Applicant hereby requests that the USPTO obtain these documents via the Dossier Access System.

c. English translations of the documents in a. and b. above along with a statement that the English translations are accurate are attached.

No documents cited by the JPO.

This collection of information is required by 35 U.S.C. 119, 37 CFR 1.55, and 37 CFR 1.102(d). The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **FAX COMPLETED FORMS TO: Office of the Commissioner for Patents at 571-273-0125, Attention: Magdalen Greenlief.**

PTO/SB/20 (01-07)
Approved for use through 12/31/2008. OMB 0651-0058
U.S. Patent and Trademark Office; U.S DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR PARTICIPATION IN THE PATENT PROSECUTION HIGHWAY(PPH) PILOT PROGRAM BETWEEN THE JPO AND THE USPTO

(continued)

Application No.:	10/559,966	First Named Inventor:	Aya Imada

II. Claims Correspondence Table:

Claims in US Application	Patentable Claims in JP Application	Explanation regarding the correspondence
16	1	Both claims are identical
17	2	Both claims are identical
18	3	Both claims are identical, except for dependency
19	4	Both claims are identical, except for dependency
20	5	Both claims are identical, except for dependency
21	6	Both claims are identical

III. All the claims in the US application sufficiently correspond to the patentable/allowable claims in the JPO application.

IV. Payment of Fees:

The Commissioner is hereby authorized to charge the petition fee under 37 CFR 1.17(h) as required by 37 CFR 1.102(d) to

☒ **Deposit Account No. 50-3939.**

☐ **Credit Card. Credit Card Payment Form (PTO-2038) is attached.**

Signature	Date: 28 November 2007
Name: LEONARD P. DIANA (Print/Typed)	Registration Number 29,296

(Form #219)

CLAIMS

1. A process for producing a structure having holes, comprising the steps of:

providing a first member having a patterning layer comprised of a material soluble during anodization on a layer to be anodized,

forming a protrusion-depression structure on the patterning layer by impressing a second member having protrusions on the patterning layer, and

anodizing the substrate by immersing the substrate in an anodization solution, retaining the patterning layer in the depression of the protrusion-depression structure, to form holes on the substrate, starting from the depression side.

2. The process according to claim 1, wherein the patterning layer consists of a material having a less strength than the second member.

3. The process according to claim 1 or 2, wherein the patterning layer contains an alkoxide.

4. The process according to any one of claims 1 to 3, wherein the height of the protrusions of the second member is larger than the thickness of the patterning layer.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of
Inventor: Aya IMADA et al.
Application No. 10/559,966
Title: PROCESS FOR PRODUCING STRUCTURE, STRUCTURE THEREOF, AND MAGNETIC RECORDING MEDIUM

VERIFIED TRANSLATION OF DOCUMENTS CONCERNING JAPANESE PATENT APPLICATION

I, SHINICHI USUI, a Japanese Patent Attorney registered No. 9694, of Okabe International Patent Office at No. 602, Fuji Bldg., 2-3, Marunouchi 3-chome, Chiyoda-ku, Tokyo, Japan, hereby declare under penalty of perjury under the laws of the United States of America that I have a thorough knowledge of Japanese and English languages, and that the attached are accurate translations of the documents listed below concerning Japanese Patent Application No. 2003-163852:

Final Claims
Notification of Reason for Refusal

Signed this 14th day of September, 2007

SHINICHI USUI

5. A process for producing a functional structure comprising a step of filling a functional material into the holes formed in the process set forth in any one of claims 1 to 4.

6. A process for producing a magnetic recording medium, wherein the functional material set forth in claim 5 is a magnetic material.

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最終頁に続く

(54)【発明の名称】構造体、機能性構造体及び磁気記録媒体の製造方法

(57)【特許請求の範囲】

【請求項1】

孔を有する構造体の製造方法であって、

被陽極酸化膜上に、陽極酸化処理により溶解する材料からなるパターン形成層を有する第1の部材を用意し、

複数の凸部を有する第2の部材を、該パターン形成層に押付けて、該パターン形成層に凹凸構造を形成し、

該凹凸構造の凹部に該パターン形成層を残存させたまま、該基板を陽極酸化溶液に浸して陽極酸化処理し、

該凹部側を開始点として該基板に孔を形成することを特徴とする孔を有する構造体の製造方法。

【請求項2】

前記パターン形成層は、前記第2の部材よりも強度の弱い材料である請求項1記載の孔を有する構造体の製造方法。

【請求項3】

前記パターン形成層がアルコキシドを含有することを特徴とする請求項1又は2に記載の孔を有する構造体の製造方法。

【請求項4】

前記第2の部材の前記凸部の高さが、前記パターン形成層の厚さより高いことを特徴とする請求項1から3のいずれか1項に記載の孔を有する構造体の製造方法。

【請求項５】

請求項１から４のいずれか１項に記載の製造方法により形成されている前記孔の中に、機能性材料を充填する工程を有することを特徴とする機能性構造体の製造方法。

【請求項６】

請求項５に記載の前記機能性材料が、磁性材料であることを特徴とする磁気記録媒体の製造方法。

【発明の詳細な説明】

【０００１】

【発明の属する技術分野】

本発明は、孔を有する構造体の製造方法に関する。特に、孔に磁性体等の機能性材料を充填することによって、磁気記録媒体等の機能性の構造体を製造する方法に関する。

【０００２】

【従来の技術】

物体表面に微細な構造を作製する技術として、従来からの光や電子線によるリソグラフィーではなく、凹凸を持つ構造体を加工物に直接押圧してナノメートルサイズの構造を形成するナノ・インプリント（ｎａｎｏ－ｉｍｐｒｉｎｔ）という方法が、新しい技術として提案されている（米国特許第５，７７２，９０５号公報）。

【０００３】

この手法は、図９に示すように電子ビーム等により加工された数十～数百ｎｍサイズの凸構造パターン１０３を有するスタンパ１００を、平坦な基板１０５上に形成した樹脂薄膜１０４に押圧して引き離すことで凹凸構造パターンを形成し、樹脂薄膜の凹部（モールド領域）１０６を反応性イオンエッチング等によって除去し、この樹脂層をマスクとして基板１０５をエッチングすることで、元のスタンパと相対する凹凸を有するナノメートルサイズの構造体１０７、１０８を形成するものである。この手法では、押圧によるスタンパ１００の劣化を防ぐために、スタンパ１００の凸構造１０３が樹脂薄膜１０４を形成した基板１０５に到達する前に押圧をやめ、引き離す手法をとっている。この手法では、樹脂薄膜にスタンパの凸構造表面が到達する直前に押圧をやめた場合であっても、押圧による樹脂の盛り上がりにより、スタンパの凹構造表面に樹脂薄膜が接触する場合があった。

【０００４】

所かる接触は、スタンパを樹脂薄膜から引き離す際に樹脂薄膜に形成された凹凸形状の乱れなどを起こす場合があった。

【０００５】

【発明が解決しようとする課題】

そこで、本発明の課題は、所望の位置に孔を形成した構造体を提供することにある。

【０００６】

【課題を解決するための手段】

本発明は、孔を有する構造体の製造方法であって、被陽極酸化膜上に、陽極酸化処理により溶解する材料からなるパターン形成層を有する第１の部材を用意し、複数の凸部を有する第２の部材を、該パターン形成層に押付けて、該パターン形成層に凹凸構造を形成し、該凹凸構造の凹部に該パターン形成層を残存させたまま、該基板を陽極酸化溶液に浸して陽極酸化処理し、該凹部側を開始点として該基板に孔を形成することを特徴とする孔を有する構造体の製造方法に関する。

【０００７】

また、本発明は、複数の凸構造を有する押圧部材を被加工層上のパターン形成層に押圧する工程、及び該部材と該パターン形成層を引き離す工程を含む構造体の製造方法において、該凸構造表面のサイズが５００ｎｍ以下であって、且つ該凸構造の高さが１０μｍ以下の該部材を用い、該部材の該凸構造の高さより該パターン形成層の膜厚を薄くし、該部材の凸構造の先端と該被加工層表面との間隔が５０ｎｍ以下の場合に該部材の凹部に該パターン形成層の表面が接触しないように押圧することを特徴とする構造体の製造方法に関する。

【０００８】
ここでいう、押圧部材の凸構造表面のサイズとは、その表面形状が円の場合は直径を、多角形の場合はその外径である。上記凸構造の高さは、数ｎｍ以上１０μｍ以下、好ましくは数１０ｎｍ以上５μｍ以下である。
【０００９】
本発明でのナノ構造体の製造方法は、被加工層の表面にスタンパの凸構造の高さよりも薄い膜厚のパターン形成層を設け、これにスタンパを相対向させて押圧し、パターン形成層にスタンパの凸構造パターンを形成することが好ましい。
【００１０】
スタンパの凸構造の高さよりも薄いパターン形成層を使用することで、気泡の影響を軽減し、真空雰囲気を必要とせず、また、押圧後のエッチングにより被加工層を露出させた後に陽極酸化等の加工を行う。押圧方向への厳密な位置制御を行う必要がなく、簡易なナノプリント法を提供することが出来る。
【００１１】
【発明の実施の形態】
本発明の実施態様として以下のものが挙げられる。
【００１２】
図４に示すように、凸構造のパターンが形成されたスタンパ（押圧部材）とパターン形成層が上部に設けられた被加工層を、相対向させて前記スタンパを前記パターン形成層に押圧し、少なくとも前記凸構造の先端が前記被加工層表面から最大５０ｎｍの位置まで接近してから前記スタンパを引き離し、前記パターン形成層に前記スタンパの凸構造パターンを形成する方法が好ましい。
【００１３】
前記パターン形成層が、温度上昇に比例して低粘性になる材料である場合、前記押圧時に前記パターン形成層を適当な粘性になるよう加熱してから押圧し、冷却して剥離することが好ましい。
【００１４】
図２（ａ）、（ｂ）に示すように、前記製造方法により作製されるナノ構造体において、ドライエッチングまたはウエットエッチング技術により前記パターン形成層の凹部にて前記被加工層を露出させる（工程）方法が好ましく、図２（ｃ）に示すように、前記のいずれかの製造方法により作製されるナノ構造体を陽極酸化することにより前記被加工層に凹構造を形成する方法が好ましい。
【００１５】
前記被加工層を露出させる工程で、パターン形成層凹部の前記被加工層を露出させると共に、前記被加工層に深さｌｎｍ以上の凹部を作製するドライエッチングまたはウエットエッチングである方法であることが好ましい（図２（ｂ））。
【００１６】
前記スタンパは、前記凸構造の間隔がｌμｍ以下である少なくとも一組の隣接した凹凸構造体を有することが好ましい。
【００１７】
前記パターン形成層が、溶剤に溶かした樹脂やアルコキシドやシリコンを含む樹脂材料やシルセスキオキサン等の流動性があり且つ薄く塗布することの出来る材料であることが好ましい。
【００１８】
前記被加工層が、アルミニウムを成分とする金属であることが好ましい。
【００１９】
前記被加工層が、アルミニウム以外の金属を成分とする下地層と、アルミニウムを成分とする表面層からなることが好ましい。
【００２０】
また本発明のナノ構造体の製造方法では、図１に示すように、凸構造４のパターンが形成

されたスタンパ１と、凸構造４の高さより薄い膜厚のパターン形成層２を有する被加工層３を相対向させ、スタンパ１を押圧し、少なくとも凸構造４の先端を被加工層３の表面から最大５０ｎｍの範囲内に接近させ、次いでスタンパを引き離し、パターン形成層２にスタンパ１の凸構造パターンを形成することが好ましい。

【００２１】

例えば、電子線、Ｘ線、紫外線または可視光線等によるリソグラフィーとウエットエッチングもしくはドライエッチング技術、電子線直描技術、または陽極酸化法等によって、少なくとも一つの凹凸を有するスタンパ１を作製する。この凸構造４の表面は平坦であることが好ましく、凸構造４が複数形成される場合には各々の頂点が同一平面内に位置することが好ましい。また凸構造は、図５（ａ）に示すように、三角格子状の円柱配列構造であることが好ましい。また、図５（ｂ）のように、数種類の規則構造からなる多周期配列でも良い。

【００２２】

また図１に示すように、被加工層３上にスピンコート方等により溶剤に溶かした樹脂やアルコキシドやシリコンを含む樹脂材料やシルセスキオキサン等の流動性があり且つ薄く塗布することの出来る材料を主成分とする液状材料を塗布し、パターン形成層２とする。パターン形成層２の膜厚はスタンパ１の凸構造４の高さよりも薄くなるようにする。次に、スタンパ１をパターン形成層２に相対向させ、次いで押圧し、少なくともスタンパ１の凸構造４の先端が被加工層３の表面から最大５０ｎｍの範囲内に達してからスタンパを引き離し、パターン形成層２にスタンパ１の凸構造パターン４を形成する。押付け部材は、表層がシリコンやニッケル等からなる規則配列凸構造体であり、剥離性を良くするためにフッ素樹脂やシランカップリング剤等の離型材料を付与することが望ましい。

【００２３】

パターン形成層２の膜厚がスタンパ凸構造４の高さより薄いため、スタンパ凹構造５に溜まってパターン形成を阻害していた気泡によるパターン形成層への影響が生じにくくなる。そのため、真空雰囲気中で押圧し、引き離しを行う必要がなくなる。また、被加工物９をパターン形成層２の粘度が下がる温度まで上昇させ、流動性を良くしてから押圧することも好ましい。

【００２４】

また、こうして作製された構造体に対し、ドライエッチングまたはウエットエッチングを行い、パターン形成層凹部７に残留したパターン形成層２を除去して被加工層３を露出させることが好ましい（図２（ａ）、（ｂ））。

【００２５】

例えば、被加工層３が金属等の導電性物質であり、パターン形成層２が樹脂等の絶縁物であれば、パターン形成後のパターン形成層２をマスクとし、露出した被加工層３を電極として電気めっきを行うことが出来る。この後、パターン形成層２のみを溶解する溶液中に浸すことで、スタンパ１と同様の凹凸構造を有する異種材料による構造体を得る事が出来る。

【００２６】

また、図２（ｃ）に示すように、被加工層３がアルミニウムを主成分とする材料である場合、パターン形成層凹部７の底部に残った膜をエッチングして得られた被加工層の露出部を開始点として陽極酸化を行えば、露出部分のパターンを反映したアルミナナノホールを得る事が出来る。パターン形成層が陽極酸化の溶液で溶解されてしまう場合は、図６に示すように、その上から陽極酸化時に溶解するようなアルミニウム等の金属を薄く積層して保護層１１とし（図６（ｂ））、陽極酸化を行えばよい（図６（ｃ））。

【００２７】

また図７に示すように、エッチング時に被加工層の露出部も多少削られる場合は、パターン形成層を除去してから（図７（ｂ））、陽極酸化を行えば良い（図７（ｃ））。

具体的に陽極酸化とは、パターン形成層を有する被加工層を陽極としてシュウ酸水溶液や硫酸水溶液などの酸性溶液中に浸し、電解を印加して陽極酸化を行うことである。陽極酸

化による酸化と溶解は、パターン形成層の凹構造部分から優先的に開始するため、凹構造パターンを反映した配列の細孔が形成されることになる。このとき印加する電圧は、一般に形成する配列周期の２．５$^{-1}$［Ｖ／ｎｍ］倍とされており、例えば１００ｎｍ間隔の三角格子配列のときは、４０Ｖを印加すれば良く、印加する電圧により形成される細孔の平均周期長がきまる。そのため、例えば三角格子状の規則凹構造をパターン形成層２に形成し、その凹部７から細孔を形成する場合、規則凹構造の配列が多少乱れていても陽極酸化印加電圧により自然に補正されて規則正しい配列の細孔を得ることが可能である。

【００２８】

また、パターン形成層が上記陽極酸化溶液によって適度な速度で均一に溶解する材料である場合、エッチングプロセスを省略することが可能である。陽極酸化を開始すると、パターン形成層が溶解を始め、まず凹構造底部の被加工層が露出し、そこから電流が流れて被加工層のナノホールが形成され始める。パターン形成層が陽極酸化溶液によって溶解しない材料の場合は、被加工層表面には何も形成されない。

【００２９】

次に、リン酸水溶液などの被加工層を溶解する溶液中にこれを浸せば、形成されたナノホール構造の径を任意に拡大することが出来る。

【００３０】

さらに、電着やスパッタ等でホールに機能性材料を充填することによって、種々の機能を有した構造体ができる。特に、電着で磁性体を細孔に充填することによって、磁気記録媒体の作成が可能である。

【００３１】

【実施例】

以下、図面を参照して本発明の実施例を詳細に説明する。

【００３２】

［実施例１］

本発明の一例を示す。図１を参照する。

【００３３】

凹凸構造のパターンが形成されたスタンパ１を、凸構造４の高さより薄い膜厚のパターン形成層２を有する被加工層３に相対向させて押圧し、少なくとも凸構造４の先端が被加工層３の表面から３０ｎｍまで近づいた後に引き離し、パターン形成層２にスタンパ１の凸構造パターンを形成する。

【００３４】

例として、原盤に、１００ｎｍ間隔で配列した直径３０ｎｍ、高さ７５ｎｍの円柱状凸構造４を、電子ビーム露光とドライエッチングプロセスにより作製しスタンパ１とする。次に、図１に示すようにＳｉ基板８上に酸化シリコン（SiO_2）から成る厚さ１００ｎｍの被加工層３と、ポリメチルメタクリレート（ＰＭＭＡ）から成る厚さ５０ｎｍのパターン形成層２を作製する。ＰＭＭＡはエチルセロソルブアセテートに溶解し、スピンコート法にて塗布する。パターン形成層２にスタンパ１を相対向させ、基板温度１２０℃、荷重１０００ｋｇｆ／ｃｍ^{2}で押圧し、３０秒間保持した後に６０℃まで冷却してから引き離す（図１（ａ）（ｂ））。パターン形成層２の凸構造６の高さは、凹構造７の体積分の樹脂が流動するために押圧前の厚さより若干厚くなり、凹構造７の底部にはスタンパ形状の不均一性による残留樹脂が薄膜となって残る。

【００３５】

パターン形成層２の膜厚がスタンパ凸構造４より薄いため、従来スタンパ凹構造５に溜まってパターン形成を阻害していた気泡は、スタンパ凹構造間を伝わり外部へ放出されるため、真空雰囲気中での押圧などの手段を行わずに微細なパターンを作製することが出来ると共に、接触面積が小さいために押圧圧力も少なく済む。また、パターン形成後のパターン形成層凸部６の高さも、当初のパターン形成層２の膜厚とスタンパ１形状により決定されるため、押圧荷重の微調整や押圧方向の位置制御を行う必要が無い。

【００３６】

［実施例２］
本発明の一例を示す。図２，３を参照する。
【００３７】
実施例１に記載のナノ構造体の製造方法により作製された構造体に対し、ドライエッチングまたはウエットエッチングを行い、パターン形成層凹部７に残留した樹脂材料を除去して被加工層３を露出させる。
【００３８】
実施例１に記載のスタンパ１を、被加工層３が厚さ１００ｎｍのアルミニウム（Ａｌ）であり、且つ、パターン形成層２がＰＭＭＡである被加工物９に、基板温度１２０℃、荷重１０００ｋｇｆ／ｃｍ^2、保持時間３０秒間の条件で相対向させて押圧、次いで６０℃に冷却してから引き離して図１（ｃ）のような構造体を作製する。酸素雰囲気下でドライエッチングを行い、パターン形成層凹部７に残留した樹脂を除去し、Ａｌを露出させる（図２（ａ））。また、BCl_3とO_2ガスの混合ガス等の雰囲気下でエッチングを行い、パターン形成層凹部７の下部のＡｌも同時にエッチングして凹部を作製することも出来る（図２（ｂ））。
【００３９】
また、この後、パターン形成層凸部６をマスクとし、被加工層３を電極として錫銅半田電気めっきを行い、アセトンの超音波洗浄によりパターン形成層凸部６のみを除去し、ナノメートル間隔に並んだ半田凸構造体を作製することが出来る。
【００４０】
また、図３（ａ）に示すようにスパッタ等で所望の材料の積層膜１０を形成し、アセトンの超音波洗浄によりパターン形成層凸部６のみを除去し、図３（ｂ）のような凸構造体を作製することも出来る。
【００４１】
［実施例３］
本発明の一例を示す。図２，３を参照する。
【００４２】
実施例１に記載のスタンパ１を、被加工層３がＡｌであり、且つ、パターン形成層２がシルセスキオキサンである被加工物９に、基板温度室温、荷重１２００ｋｇｆ／ｃｍ^2、保持時間３０秒間の条件で相対向させ押圧して、次いで引き離し、アルゴンやSF_6雰囲気下にてドライエッチングを行い、Ａｌを露出させる（図２（ａ））。次に、これを０．３ｍｏｌ／Ｌ硫酸水溶液中にて陽極とし、温度１６℃で４０Ｖを印加して陽極酸化を行う。露出部分が陽極酸化の開始点となるため、パターン形成層のパターンを反映して配置されたアスペクト比の高いナノメートルサイズの孔を得る事が出来る（図２（ｃ））。シルセスキオキサンは硫酸水溶液に不溶であるため、除去をする必要がない。
【００４３】
［実施例４］
本発明の一例を示す。図４を参照する。
【００４４】
凹凸構造のパターンが形成されたスタンパ１を、パターン形成層２を有する被加工層３に相対向させて押し付けてから引き離し、パターン形成層２にスタンパ１の凸構造と相反する凹構造パターンを形成する。
【００４５】
例として、Ｓｉからなる原盤に、１００ｎｍ間隔で三角格子状に配列した直径３０ｎｍ、高さ７５ｎｍの円柱状凸構造４を、電子ビームリソグラフィとドライエッチングプロセスにより作製しスタンパ１とする。凸構造４の最も高い表面は、同一平面内上に位置することが望ましい。次に、図４に示すようにＳｉからなる基板８上に酸化シリコン（SiO_2）から成る厚さ１００ｎｍの被加工層３と、ポリメチルメタクリレート（ＰＭＭＡ）から成る厚さ１００ｎｍのパターン形成層２を作製する。ＰＭＭＡはエチルセロソルブアセテートに溶解し、スピンコート法にて塗布する。パターン形成層２にスタンパ１を相対向さ

せ、基板温度１２０℃、荷重５００ｋｇｆ／ｃｍ²で押し付け、その状態で保持したまま６０℃まで冷却した後に引き離す（図４（ａ）、（ｂ）、（ｃ））。凹構造７の体積分の樹脂が流動するために、パターン形成層２のプレスした部分の周囲の厚みは押し付け前の厚さより若干厚くなり、凹構造７の底部にはスタンパ形状の不均一性や流動しきれなかったことによる残留樹脂が薄膜となって残る。

【００４６】

パターン形状によっては、スタンパ１の凹構造５に気泡が残留し、樹脂の流動が妨げられて完全にスタンパ形状に沿ったパターンを形成することが困難となるが、基板温度を高くし樹脂の流動性を高めたり、パターン形成層２の厚さを凸構造４より薄くしたりすることにより、この影響を減じることが出来る。

【００４７】

［実施例５］

本発明の一例を示す。図６を参照する。

【００４８】

実施例４に記載のナノ構造体の製造方法により作製された構造体に対し、ドライエッチングまたはウエットエッチングを行い、パターン形成層凹部７に残留した樹脂材料を除去して被加工層３を露出させる。

【００４９】

実施例４に記載のスタンパ１を、Ｓｉ基板８上に形成された被加工層３が厚さ２００ｎｍのアルミニウム（Ａｌ）であり、且つ、パターン形成層２がＰＭＭＡである被加工物９に、基板温度１２０℃、荷重５００ｋｇｆ／ｃｍ² で相対向させて押し付け、その状態で保持したまま６０℃まで冷却した後に引き離して図４（ｃ）のような構造体を作製する。ドライエッチングにより酸素雰囲気下でエッチングを行い、パターン形成層凹部７に残留した樹脂のみを除去し、Ａｌを露出させる（図６（ａ））。次に、図６（ｂ）に示すようにスパッタで厚さ５ｎｍのＡｌの保護層１１を形成し、これを陽極としてシュウ酸水溶液（０．３ｍｏｌ／Ｌ，１６℃）中に浸して、４０Ｖの印加電圧の下で陽極酸化を行うと、図６（ｃ）に示すようなアルミナナノホールが形成される。ナノホールはパターン形成層凹部７から形成され、１００ｎｍ間隔の三角格子状に配列する。保護層１１は、酸性溶液中においてパターン形成層２が侵されるのを防ぐ役目を果たし、リン酸水溶液中等のアルミニウムを溶解する溶液中にて超音波洗浄を行うことで、除去できる。同様に、ＰＭＭＡもリン酸水溶液やアセトン等の溶媒中で超音波洗浄することにより、除去できる。

【００５０】

［実施例６］

本発明の一例を示す。図７を参照する。

【００５１】

実施例５ないし実施例２に記載のナノ構造体の製造方法での工程において、ドライエッチングをBCl_3とO_2の混合エッチング雰囲気下でエッチングを行い、パターン形成層凹部７の下部の残留した樹脂とＡｌを同時にエッチングし、Ａｌ表面に凹部を作製することも出来る（図７（ａ））。この後、アセトン中にて超音波洗浄してＰＭＭＡを除去するかオゾンアッシングで除去をし（図７（ｂ））、これを陽極としてシュウ酸水溶液（０．３ｍｏｌ／Ｌ，１６℃）中に浸して、４０Ｖの印加電圧の下で陽極酸化を行うと、図７（ｃ）に示すようなアルミナナノホールが形成される。ナノホールはＡｌ表面の凹部１３から形成され、１００ｎｍ間隔の三角格子状に配列する。

【００５２】

［実施例７］

本発明の一例を示す。図８を参照する。

【００５３】

凹凸構造のパターンが形成された押付け部材を、パターン形成層を有する被加工層に相対向させて押し付けてから引き離し、パターン形成層に押付け部材の凸構造と相反する凹構造パターンを形成する。

次に、Ｓｉからなる基板上に厚さ１０ｎｍのチタンと更にその上層に厚さ５００ｎｍのアルミニウム膜を形成し、被加工層とする。また更にその上層に、アルミニウムアルコキシドから成る厚さ７５ｎｍのパターン形成層を作製する。アルミニウムアルコキシドはＩＰＡ（イソプロピルアルコール）に溶解してから、スピンコート法にて塗布する。パターン形成層に実施例４記載の押付け部材を相対向させ、基板温度１５０℃、荷重１０００ｋｇｆ／ｃｍ^{2}で押し付け、その状態で保持したまま６０℃まで冷却した後に引き離す。凹構造の体積分の樹脂が流動するために、パターン形成層のプレスした部分の周囲の厚みは押し付け前の厚さより若干厚くなり、凹構造の底部には押付け部材形状の不均一性や流動しきれなかったことによる残留樹脂が薄膜となって残る。

【００５４】

次に、これを陽極として硝酸水溶液（０．３ｍｏｌ／Ｌ，１６℃）中に浸し、４０Ｖの電圧を印加して陽極酸化を行う。アルミニウムアルコキシドは加水分解をし硝酸水溶液中で徐々に溶解して行くため、先に被加工層が露出する凹構造底部から電流が流れ始め、その部分が開始点となってアルミナナノホールの形成が開始する。陽極酸化によるアルミナナノホールは、基板に対して垂直に形成され、通常のフォトリソグラフィやエッチングプロセスでは得られない高アスペクト比な構造を非常に容易に得ることが出来る。

【００５５】

リン酸水溶液（０．３ｍｏｌ／Ｌ）中に４０分ほど浸すと、直径３０ｎｍ、深さ５００ｎｍの規則化アルミナナノホールが得られる。

【００５６】

最後に、電着によりホールに磁性材料を充填することによって、磁気記録媒体が作成できる。

【００５７】

【発明の効果】

本発明は、ナノ・インプリント法とドライエッチング、ウエットエッチング、又は陽極酸化によるナノ構造体の製造方法であり、微細な凹型ナノ構造体を簡易に製造することができる。

【図面の簡単な説明】

【図１】本発明の実施例１を説明する断面図である。

【図２】本発明の実施例２、３を説明する断面図である。

【図３】本発明の実施例２、３を説明する断面図である。

【図４】本発明の実施例４を説明する断面図である。

【図５】本発明の凸構造の配置例を説明する断面図である。

【図６】本発明の実施例５を説明する断面図である。

【図７】本発明の実施例６を説明する断面図である。

【図８】本発明の実施例７を説明する断面図である。

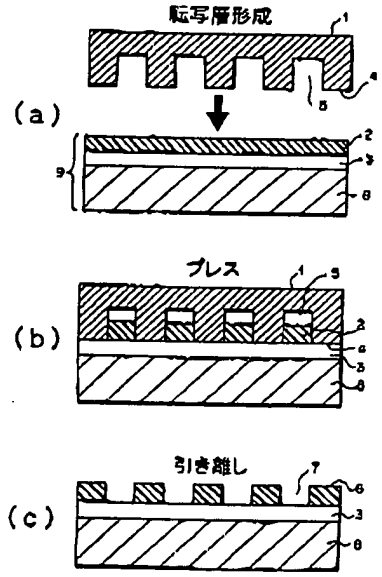
【図９】従来例を説明する図である。

【符号の説明】

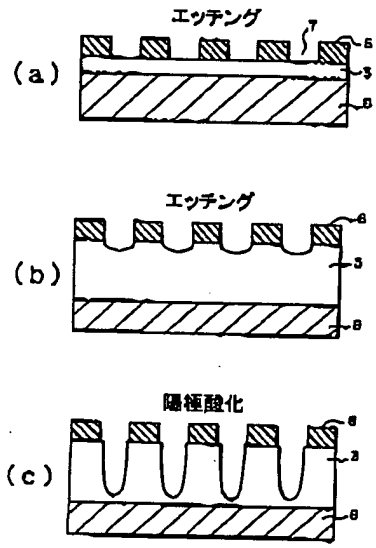
１　スタンパ
２　パターン形成層
３　被加工層
４　凸構造
５　凹構造
６　パターン形成層凸部
７　パターン形成層凹部
８　基板
９　被加工物
１０　積層膜
１００　スタンパ
１０３　凸構造

１０４	樹脂薄膜
１０５	基板
１０６	モールド領域
１０７	凸構造
１０８	凹構造

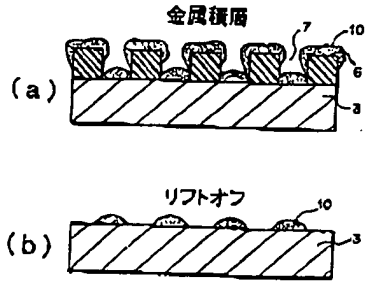
【図１】



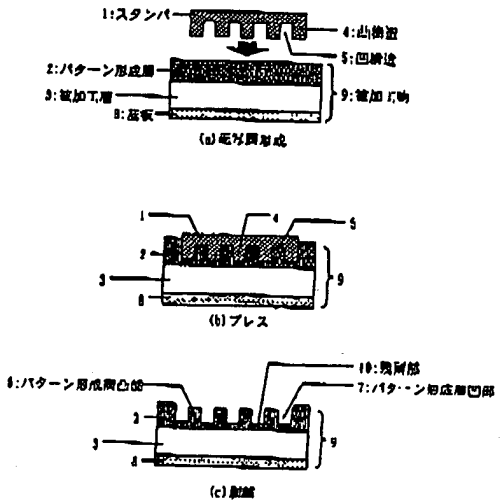
【図２】



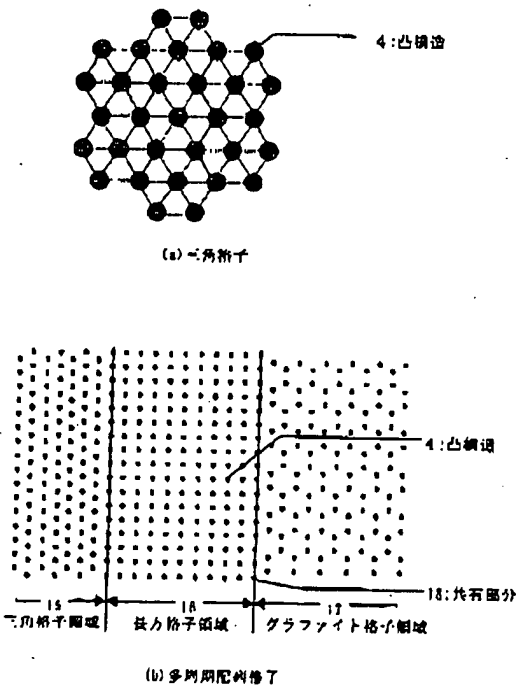
【図３】


金属積層
(a)
(b)
リフトオフ

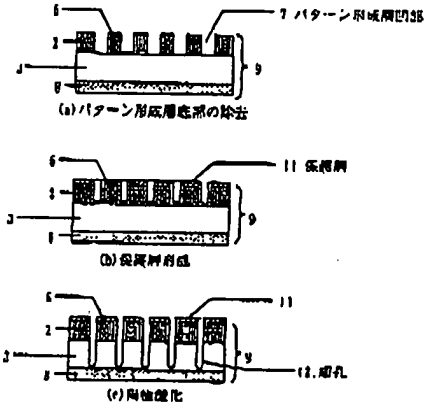
【図４】


1:スタンパ
4:凸構造
5:凹構造
2:パターン形成層
3:被加工層
8:基板
9:被加工物
(a)
(b)プレス
6:パターン形成層凸部
10:残膜部
7:パターン形成層凹部
(c)

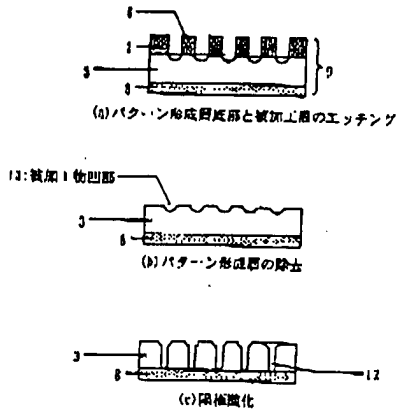
【図５】


4:凸構造
(a)
4:凸構造
15
16
17
18:共有部分
(b)

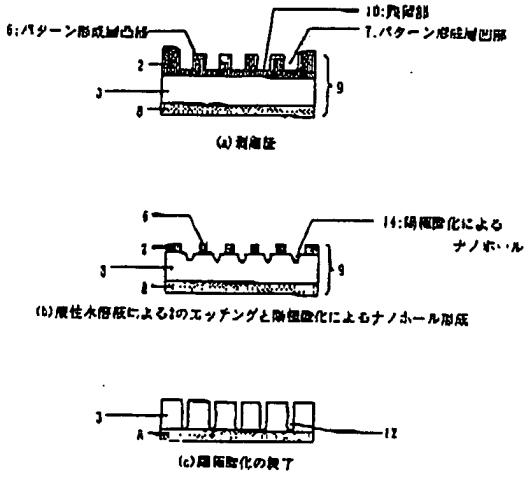
【図６】


7 パターン形成層凹部
9
(a)
11 保護膜
(b)
11
12:細孔
(c)

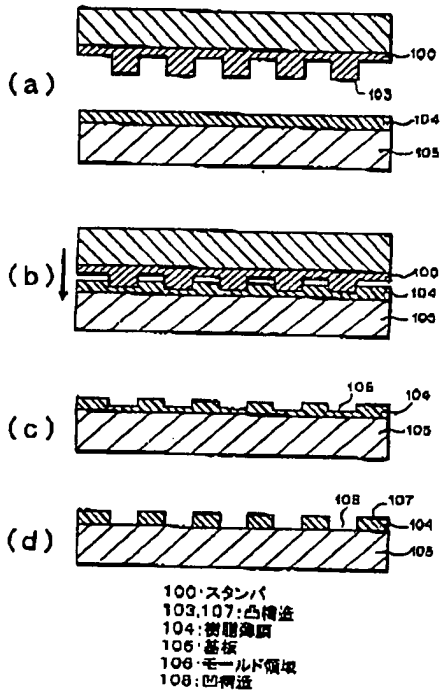
【図７】


(a)パターン形成層底部と被加工層のエッチング
(b)パターン形成層の除去
(c)陽極酸化

【図８】


(a)
(b)陽極酸化によるナノホール形成
(c)陽極酸化の終了

【図９】


(a)
(b)
(c)
(d)
100:スタンパ
103,107:凸構造
104:樹脂層
105:基板
106:モールド領域
108:凹構造

フロントページの続き

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特開2000-232095 (JP, A)
特開2001-250217 (JP, A)

(58)調査した分野(Int.Cl., DB名)

B82B 3/00
B41M 5/00
C23F 1/00
C23F 1/02
C23F 4/00
C25D 5/02
C25D 5/34
C25D 7/00
C25D 11/02
C25D 11/04
G11B 5/855

(TRANSLATION)

Docket No. 254329
Dispatch No. 019932
Date of Dispatch: January 19, 2006

NOTIFICATION OF REASON FOR REFUSAL

Patent Application No. 2003-163852
Drawing Date: January 16, 2006
Patent Office Examiner: OGAWA, Ryoh 3006 2G00
Agent for Applicant: Jouhei Yamashita (and 1 other)
Applied Articles: Articles 29, Paragraph 2 and Article 37 of the Patent Law

This application shall be rejected by the following reason(s). If the applicant has any opinions thereon, he/she is invited to file a written opinion within 60 days from the date of dispatch of this notification.

REASON

Reason 1

This application does not satisfy the requirements concerning the specification prescribed in Article 37 of the Patent Law, for the following NOTE.

NOTE

The inventions of claim 1 and dependent claims 2 to 9 thereto, and the invention of claim 10 obviously do not have the same or corresponding particular technical feature to each other("feature of merely impressing" being already disclosed in the prior technique, obviously not constituting a contribution of the invention to the prior technique, and not being recognizable as a particular technical feature), so that this application does not satisfy the requirements set forth in Patent Law, article 37.

As this application violates Patent Law, article 37, the examination on the requirements such as novelty, inventive step etc. has not been made on claims other than claims 1 to 9.

Reason 2

The invention as set forth in the following claims of this application does not deserve a patent grant under Article 29, Paragraph 2 of the Patent Law, because it is recognized that the invention has been able to be readily invented by a person having ordinary skill in the art prior to the filing of this application, based on the inventions as disclosed in the following publications published or publicly available from telecommunication network in Japan or abroad prior to the filing of this application.

NOTE(For Cited References, see LIST OF CITED REFERENCES below)

- Claims 1 to 9
- Cited References 1, 2
- Remarks

As in the invention described in Cited Reference 1, for example (See Figs. 1 and 4, Example 4, Example 6, [0043] to [0046] etc. As described in [0046], the barrier coating is conceived in various types such as an oxide. Also see Japanese Patent Application Laid-Open No. 2001-138300, Japanese Patent Application Laid-Open No. 2000-315785 etc.), there is already known a process for producing a structure having a fine hole of a prescribed pattern, for use in a magnetic recording medium and the like, by anodizing a substrate such as aluminum in a state where a barrier coating patterned in a prescribed fine pattern is disposed in an upper layer.

Cited Reference 2 describes a patterning process for a fine pattern by nanoimprinting. Therefore, as these processes are in common in a patterning for a fine pattern, no particular difficulty is recognized in applying it to the patterning of the barrier coating described in Cited Reference 1. Cited Reference 2 also describes features of claims 2 and 6.

Therefore, the inventions of claims 1 to 9 can be easily conceived, based on the inventions described in Cited References 1 and 2, by those skilled in the art.

Also the adoption of steps as described in claims 3 and 5 is merely of a level that can be suitably executed by those skilled in the art. Also in consideration of a fact that the usable coating materials described in [0046] and the usefulness of alkoxides in forming an oxide film are already known, the invention described in claim 4 is also within an ordinary creative ability of those skilled in the art. Furthermore, when the material of the barrier coating is weak in resistance to the developing solution, the protection therefor is commonly used in the general developing method for etching and the like, so that the invention described in claim 7 is also within an ordinary creative ability of those skilled in the art.

LIST OF CITED REFERENCES

1. Japanese Patent Application Laid-Open No. 2002-4087
2. U. S. Patent 5,772,905

RECORDS OF PRIOR ART SEARCH

-- Field of Search IPC 7th edition B82B3/00

-- Prior Art Documents

Japanese Patent Application Laid-Open No. 2003-196815
U. S. Patent 6,309,580
WO 00/00868 pamphlet
WO 2002/007199 pamphlet
Japanese Patent Application Laid-Open No. 2000-232095
Japanese Patent Application Laid-Open No. 2001-250217
WO 01/020402 pamphlet

This records of prior art search do not constitute the reason of refusal.

Any inquiry concerning this notification or any request for interview should be directed to Ryoh OGAWA, examiner, Patent Examining Section I, nano physics:

TEL: 03-3581-1101 ext. 3225, 3226
FAX: 03-3592-8858

整理番号:254329 発送番号:019932 発送日:平成18年 1月19日 1

拒絶理由通知書

特許出願の番号	特願２００３－１６３８５２
起案日	平成１８年 １月１６日
特許庁審査官	小川 亮 ３００６ ２Ｇ００
特許出願人代理人	山下 穣平（外 １名） 様
適用条文	第２９条第２項、第３７条

この出願は、次の理由によって拒絶をすべきものである。これについて意見があれば、この通知書の発送の日から６０日以内に意見書を提出して下さい。

理 由

理由１

この出願は、下記の点で特許法第３７条に規定する要件を満たしていない。

記

請求項１及びその従属項２－９に係る発明と、請求項１０に係る発明とは、明かに同一の又は対応する特別な技術的特徴を有しておらず（「単に押圧するという点」は先行技術において既に開示されており、発明の先行技術に対する貢献をもたらすものでないことは明らかであり、特別な技術的特徴と認められない。）、この出願は、特許法第３７条に規定する要件を満たさない。

この出願は特許法第３７条の規定に違反しているので、請求項１－９以外の請求項に係る発明については新規性、進歩性等の要件についての審査を行っていない。

理由２

この出願の下記の請求項に係る発明は、その出願前日本国内又は外国において頒布された下記の刊行物に記載された発明又は電気通信回線を通じて公衆に利用可能となった発明に基いて、その出願前にその発明の属する技術の分野における通常の知識を有する者が容易に発明をすることができたものであるから、特許法第２９条第２項の規定により特許を受けることができない。

記 （引用文献等については引用文献等一覧参照）

・請求項１－９
・引用文献１、２
・備考

例えば、引用文献１に記載の発明のように（図１、４、実施例４、実施例６、【００４３】－【００４６】等を参照。【００４６】に記載されるように、バリア被覆は酸化物等の多種多様のものが想定されている。その他にも、特開２００１－１３８３００号公報、特開２０００－３１５７８５号公報等も参照。）、所定の微細パターンにパターニングされたバリア被覆を上層に設けた状態でアルミ等の基体の陽極酸化を行い磁気記録媒体等に用いられる所定パターンの微細孔を有する構造体を製造する方法は周知である。

引用文献２には、ナノインプリントによる微細パターンのパターニング方法が記載されている。してみると、微細パターンのパターニング方法という点で共通するので、引用文献１に記載のバリア被覆のパターニングに適用することに格別の困難は認められない。また、引用文献２には、請求項２、６の特徴点も記載されている。

よって、引用文献１、２に記載の発明に基づき、請求項１－９に係る発明とすることは、当業者が容易に想到し得ることである。

なお、請求項３、５のような工程にする程度のことは、当業者が適宜なし得ることに過ぎない。また、【００４６】に記載の使用し得る被覆材料と、酸化被膜の形成等にアルコキシドを用い得ることは周知であることを鑑みると、請求項４に記載の発明とすることも当業者の通常の創作能力の発揮である。また、バリア被覆の材料が現像液に対する耐性が弱い場合にその保護を図ることはエッチング等の現像方法一般で慣用されることであるから、請求項７に記載の発明とすることも、当業者の通常の創作能力の発揮である。

引 用 文 献 等 一 覧

１.特開２００２－４０８７号公報
２.米国特許第５７７２９０５号明細書

先行技術文献調査結果の記録

・調査した分野　ＩＰＣ第７版　Ｂ８２Ｂ３／００
・先行技術文献　特開２００３－１９６８１５号公報
米国特許第６３０９５８０号明細書
国際公開第００／００８６８号パンフレット
国際公開第２００２／００７１９９号パンフレット
特開２０００－２３２０９５号公報
特開２００１－２５０２１７号公報

整理番号:254329 発送番号:019932 発送日:平成18年 1月19日 3/E

国際公開第０１／０２０４０２号パンフレット

この先行技術文献調査結果の記録は、拒絶理由を構成するものではない。

この拒絶理由に関する問い合わせ、又は面接の希望がある場合には以下に御連絡下さい。

連絡先 特許審査第１部ナノ物理 小川亮
ＴＥＬ：０３－３５８１－１１０１ 内線３２２５、３２２６
ＦＡＸ：０３－３５９２－８８５８

Disclaimer:
This English translation is produced by machine translation and may contain errors. The JPO, the INPIT, and those who drafted this document in the original language are not responsible for the result of the translation.

Notes:
1. Untranslatable words are replaced with asterisks (****).
2. Texts in the figures are not translated and shown as it is.

Translated: 22:29:17 JST 12/13/2007
Dictionary: Last updated 11/16/2007 / Priority:

Decision to Grant a Patent

Application number: Application for patent 2003-163852
Date of Drafting: Heisei 18(2006) August Four days
Patent examiner: OGAWA, Akira 3006 2G00
Title of invention: The manufacture method of a structure, a functional structure, and a magnetic recording medium
The number of claims: 6
Applicant: CANON KABUSHIKI KAISHA
Representative: YAMASHITA, Johei (and 1 others)

This application is to be granted a patent as there is no reason for refusal.

Director General(p.p.) Director(p.p.) Examiner Assistant examiner Manager for Determination of Classification MURATA, Naohide OGAWA, Akira GOTO, Ryoji 8117 3006 9610

1. Distinction of Patent: Usually
2. Reference documents: **
3. Application of Patent Law, Section 30: Nothing
4. Change of Title of Invention: Nothing
5. International Patent Classification (IPC)

B82B 3/00 B41M 5/00 101 C23F 1/00 102 C23F 1/02 C23F 4/00 A C25D 5/02 B C25D 5/34 , C25D 7/00 K, C25D 11/02 , C25D 11/04 304 , G11B 5/855

6. Deposition of Microorganism

7. Display of Purport that Retroactivity of Filing Date is not Accepted

Decision to Grant a Patent(Memorandum)

Application number: Application for patent 2003-163852

1. Technical Fields to Be Searched (IPC, DB Name)

B82B 3/00 B41M 5/00 C23F 1/00 C23F 1/02 C23F 4/00 C25D 5/02 C25D 5/34 C25D 7/00 C25D 11/02 C25D 11/04 G11B 5/855

2. Reference patent documents
United States patent 05772905th (US, A) JP,2002-004087,A (JP, A) JP,6-2167,A (JP, A) JP,2001-166717,A (JP, A) JP,11-224422,A (JP, A) JP,2002-91344,A (JP, A) JP,2001-105400,A (JP, A) JP,2002-84037,A (JP, A) JP,2000-232095,A (JP, A) JP,2001-250217,A = (JP,A)

3. Reference books and magazines

[Translation done.]

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19 JAN 2006

THE FIRM OF KARL F ROSS
5676 RIVERDALE AVENUE
PO BOX 900
RIVERDALE (BRONX) NY 10471-0900

In re Application of RAZZANO
Application No.: 10/559,973
PCT No.: PCT/EP04/01471
Int. Filing: 17 February 2004
Priority Date: 21 February 2003
Attorney Docket No.: NONE
For: CARNITINE SALT, PRELIPOSOME WHICH CONTAINS IT AND DERMO-COSMETIC FORMULA FOR TOPICAL USE BASED UPON SAID CARNITINE SALT

DECISION ON

PETITION TO REVIVE

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 07 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

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

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

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

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

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06 JAN 2006

Ivor R. Elrifi
Mintz, Levin, Cohn, Ferris, Glosky and Popeo, P.C.
One Financial Center
Boston, MA 02111

In re Application of :
RUGGERO et al. :
Application No.: 10/559,982 : DECISION ON PETITION
PCT No.: PCT/IB04/01408 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 08 April 2004 :
Priority Date: 11 April 2003 :
Attorney Docket No.: 26204-501NATL :
For: METHODS FOR TREATMENT OF :
PARKINSON'S DISEASE

The petition to revive under 37 CFR 1.137(b) filed 09 December 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
Tel: (571) 272-3298
Fax: (571) 273-0459

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30 APR 2007

PAUL J. FORDENBACHER
SILICON FOREST PATENT GROUP
11876 NW TYLER CT.
PORTLAND OR 97229

In re Application of BOYLE et al.
Application No.: 10/559,983
PCT No.: PCT/US04/18749
Int. Filing: 14 June 2004
Priority Date: 11 June 2003
Attorney Docket No.: MET-2-001.PCT.US
For: BODY-SPACE TREATMENT CATHETER

DECISION ON

PETITION TO REVIVE

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 11 April 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the"entire delay in filing the required reply from the due date for the required reply until the filing of this 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 now 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 $65 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

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MAILED

APR 12 2010

OFFICE OF PETITIONS

VINSON & ELKINS, L.L.P.
FIRST CITY TOWER
1001 FANNIN STREET, SUITE 2500
HOUSTON TX 77002-6760

In re Patent of Thompson et al.	:	DECISION ON REQUEST
Patent No. 7,601,806	:	FOR RECONSIDERATION OF
Issue Date: October 13, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/559,994	:	AND NOTICE OF INTENT TO
Filing Date: April 28, 2006	:	ISSUE CERTIFICATE OF
Attorney Docket No. PRO025/4-012US	:	CORRECTION

This is a decision on the petition filed November 12, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by two hundred ninety-five (295) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the above-identified patent is extended or adjusted by two hundred ninety-five (295) days is **GRANTED**.

37 C.F.R. § 1.704(c)(10) states,

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

At the time the patent issued, Office PALM records indicated drawings were filed July 27, 2009. As a result, the Office entered a 79-day reduction pursuant to 37 C.F.R. § 1.704(c)(10).

Patentees assert drawings were not actually filed July 27, 2009.

The Office has reviewed the record and verified drawings were not actually filed July 27, 2009. Therefore, the 79-day reduction was improper and the instant petition is granted.

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 **two hundred ninety-five (295)** 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. : 7,601,806 B2

ISSUE DATE : October 13, 2009 **DRAFT**

INVENTOR(S) : Thompson 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 216 days.

Delete the phrase "by 216 days" and insert - by 295 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

05 AUG 2008

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71285
BAYER HEALTHCARE LLC
P.O. Box 390
Shawnee Mission, KS 66201

In re Application of
KANIKANTI *et al*
U.S. Application No.: 10/559,995
PCT No.: PCT/EP2004/006370
Int. Filing Date: 14 June 2004
Priority Date: 26 June 2003
Docket No.: AH/LEA 36780
For: TABLETS CONTAINING ENROFLOXACIN AND FLAVOURING AGENTS AND/OR FLAVOURS

DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' petition to revive under 37 CFR 1.137(b) filed on 07 August 2007 is hereby **GRANTED** as follows:

A declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was provided. This is an appropriate response. The $1,500.00 petition fee has been paid. Applicants make the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required.

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

This decision responds to the status inquiry filed 26 March 2008.

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

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AUG 14 2009

OFFICE OF PETITIONS

GREGORY A. STOBBS
5445 CORPORATE DRIVE
SUITE 400
TROY MI 48098

In re Patent No. 7,530,676 :
Tomozawa et al. : DECISION ON
Issue Date: May 12, 2009 : REQUEST FOR
Application No. 10/560,001 : RECONSIDERATION OF
Filed: December 8, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. PIEZOELECTRIC :
ELEMENT, INKJET HEAD, ANGULAR :
VELOCITY SENSOR, METHODS FOR :
MANUFACTURING THEM AND INKJET :
RECORDING DEVICE :

This is a decision on the "PETITION UNDER RULE 1.705," filed June 23, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred and seventeen (417) days to five hundred and seventy-two (572) days.

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

On May 12, 2009, the above-identified application matured into US Patent No. 7,530,676 with a patent term adjustment of 417 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

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

Patentees request recalculation of the patent term adjustment to include a 155-day period of adjustment pursuant to 37 C.F.R. § 1.703(b). Patentees maintain entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 155 days and the period of adjustment due to other examination delay, pursuant to 37 CFR

§ 1.702(a)(1) of 417 days.

The 155-day period is calculated based on the application having been filed under 35 U.S.C. § 111(a) on December 8, 2005, and the instant patent issued on May 12, 2009, which is 3 years and 155 days after its filing date.

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, the period of Office delay reduced by the period of applicant delay.

The period of reduction of 0 days for applicant delay is not in dispute.

The period of 417 days for Office delay is not in dispute.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (155 days) and the period of Examination Delay (417 days) to the extent that these periods of delay are not overlapping. However, Patentees contend that 0 days 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 572 days, which is the sum of the period of Three Year Delay (155 days) and the period of Examination Delay (417 days), reduced by the period of overlap (0 days).

As such, Patentees assert entitlement to a patent term adjustment of 572 days (155 + 417 reduced by 0 overlap - 0 (applicant delay)).

The Office agrees that the application issued 3 years and 155 days after its filing date. The Office agrees that an action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 417 days for Office delay is correct. At issue is whether Patentees should accrue 155 days of patent term adjustment for the Office taking in excess of three years to issue the patent (155 days less the 0 days of overlap), as well as 417 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the entire 155-day period overlaps. 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.

> 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

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 37 C.F.R. § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C.

> 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

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 was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, December 8, 2005 to May 12, 2009. 417 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. All of the 155 days for Office delay in issuing the patent overlap with the 417 days of Office delay. During that time, the issuance of the patent was delayed by 417 days, not 417 + (155 - 0 = 155) days. Other than the period of Office delay pursuant to 37 C.F.R. §1.702(a)(1) which totals 417 days, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes.

Nonetheless, given the initial 417 days of Office delay and the 0 days of applicant delay and the time allowed within the time frames for processing and examination, the patent issued three years and 155 days after its filing date. The Office did not delay 417 days and then an additional 155 days. The 155 days attributed to the delay in the issuance of the patent overlaps with the adjustment of 417 days attributable to the grounds specified in 37 C.F.R. § 1.702(a)(1). Accordingly, at issuance,

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent. 417 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 155 days over three years to the issuance of this patent.

In view thereof, no adjustment to the patent term will be made.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of this decision will be 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. Petitioner will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

A blank fee address form may be found at http://www.uspto.gov/web/forms/sb0047.pdf.

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

Christina Tartera Donnell for

Anthony Knight
Supervisor
Office of Petitions

cc: Gregory A. Stobbs
Harness, Dickey & Pierce P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[2] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. –
>
> (1) PATENT TERM GUARANTEES. –
>
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –
>
> (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after –
>
> (I) the date on which an application was filed under section 111(a) of this title; or
>
> (II) the date on which an international application fulfilled the requirements of section 371 of this title;
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;
>
> (iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or
>
> (iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.
>
> (B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

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[2] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to –

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. –

(A) IN GENERAL. – To the extent that 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.

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

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be

adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

(b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including[3]:

In pertinent part, 37 CFR § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day

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[3] (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

> after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods[4]:

37 CFR 1.703(f) provides that:

> The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). 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. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

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[4] (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

GREGORY A. STOBBS
5445 CORPORATE DRIVE
SUITE 400
TROY MI 48098

MAILED

APR 30 2010

OFFICE OF PETITIONS

In re Patent No. 7,530,676	: DECISION ON REQUEST
Tomozawa et al.	: FOR
Issue Date: May 12, 2009	: RECONSIDERATION OF
Application No. 10/560,001	: PATENT TERM ADJUSTMENT
Filed: December 8, 2005	: and
Atty Docket No. 5077-000249/US/NP	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 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 and seventy-two (572) 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-two (572) days is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred and seventy-two (572) 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 : 7,530,676 B2

DATED : **May 12, 2009** **DRAFT**

INVENTOR(S) : Tomozawa 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 417 days

Delete the phrase "by 417 days" and insert – by 572 days--

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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20 JAN 2006

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

In re Application of	:	
GILLESPIE, David	:	
Application No.: 10/560,040	:	DECISION
PCT No.: PCT/AU04/00290	:	
Int. Filing Date: 09 March 2004	:	ON PETITION UNDER
Priority Date: 07 March 2003	:	
Docket No.:	:	37 CFR 1.137(b)
For: QUESTIONNAIRE SOFTWARE MODULE	:	

Applicant's "Petition to Revive Abandoned Application Under the Provisions of 37 C.F.R. §1.137(b)," filed in the above-captioned application on 07 December 2005 is **GRANTED**.

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, 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 was submitted during the international phase. However, as the declaration did not accompany the original submission, it was required to identify the international application to which it was directed. The declaration did not comply with the requirement.

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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UNITED STATES DEPARTMENT OF COMMERCE
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GE HEALTHCARE, INC.
IP DEPARTMENT 101 CARNEGIE CENTER
PRINCETON, NJ 08540-6231

Mail Date: 04/21/2010

Applicant	: Alan Cuthbertson	: DECISION ON REQUEST FOR
Patent Number	: 7608243	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/560,062	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **947** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Paper No.

FRISHAUF, HOLTZ, GOODMAN &
CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

COPY MAILED

SEP 26 2008

In re Patent No. 7,384,446	:	DECISION ON REQUEST
Unami et al.	:	FOR RECONSIDERATION OF
Issue Date: June 10, 2008	:	PATENT TERM ADJUSTMENT
Application No. 10/560,080	:	and
Filed: December 8, 2005	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 05850/HG	:	CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN AN ISSUED PATENT (37 CFR §1.705(d)), filed June 30, 2008. Patentee requests that the patent term adjustment on the issued patent be corrected from seventy-one (71) days to one hundred ninety (190) days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred ninety (190)** days.

On June 10, 2008, the application matured into U.S. Patent No. 7,384,446, with a revised patent term adjustment of 71 days. On June 30, 2008, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), requesting that the Patent Term Adjustment be corrected to 190 days. Patentee disputes the reduction of 119 days associated with a paper filed after the mailing of the notice of allowance.

A review of the application history reveals that the paper filed February 13, 2008 was entered as an amendment, but was a COMMENT ON THE NOTICE OF ALLOWANCE. Thus, the entry of a period of reduction pursuant to 37 CFR 1.704(c)(10)[1] is not warranted. As stated in MPEP 2732:

> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office).

In view thereof, the patent should have issued with a patent term adjustment of one hundred ninety (190) days.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-

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[1] 1.704(c)(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or (ii) Four months.

identified patent is extended or adjusted by **ONE HUNDRED NINETY (190)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Attachment: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,384,446 B2

DATED : **June 10, 2008**

INVENTOR(S) : Unami 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 71 days

Delete the phrase "by 71 days" and insert – by 190 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 05/20/2010

Applicant	: Magali Bou	: DECISION ON REQUEST FOR
Patent Number	: 7625745	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/560,086	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **746** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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0 6 DEC 2006

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

In re Application of ARIC MENON (Deceased) Application No.: 10/560,093 PCT No.: PCT/DK04/00395 Int. Filing Date: 10 June 2004 Priority Date: 12 June 2003 Attorney Docket no.: PLOUGH5.001APC For: OPTICAL AMPLIFICATION IN MINIATURIZED POLYMER CAVITY RESONATORS	DECISION ON REQUEST UNDER 37 CFR 1.42 and TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's Response to Notification of Missing Requirements filed in the United States Patent and Trademark Office (USPTO) on 02 October 2006 and is a request to withdraw the holding of abandonment as well a request under 37 CFR 1.42. Applicant also submitted a request for a five month extension of time, which is granted.

BACKGROUND

On 09 December 2005, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee.

On 01 March 2006, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), and surcharge for filing the oath or declaration after the thirty month period, was required. The Notification gave two (2) months within in which to respond and indicated that extensions of time were available under 37 CFR 1.136(a) or until 02 October 2006 (01 October 2006 was a Sunday)..

On 05 September 2006, a Notification of Abandonment was mailed to applicant indicating that the application was abandoned because applicant had failed to response to the Notification of Missing Requirements.

On 02 October 2006, applicant filed a response to the Notification submitting a declaration signed by inventors Soren Kragh, Anders Kristensen, and identifying Elizabeth Mix, as the executor of deceased inventor, Aric Menon.

DISCUSSION

At the outset, it is noted that the Notification of Abandonment was mailed in error and is hereby **VACATED**. As indicated above, the time period within which to respond to the Notification of Missing Requirements, including extensions of time, expired on 2 October 2006.

37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

Although the declaration identifies Elizabeth Mix as the executor the estate of deceased inventor Aric Menon, the declaration is defective because it does not 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.

What is required is a declaration executed by Elizabeth Mix, which identifies her as executor for deceased inventor Aric Menon. The declaration must provide Elizabeth Mix's citizenship, residency and mailing address and identify Aric Menon as the deceased inventor, providing his citizenship, former residency and mailing address on the declaration.

Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE.** The petition to withdraw the holding of abandonment is **GRANTED**. The 05 September 2006 Notification of Abandonment is hereby **VACATED**.

Applicant is required to correct the above-noted defects including the furnishing of a oath/declaration in compliance with 37 CFR 1.42 and 1.497 within **TWO (2) MONTHS** from the mail date of this Decision.

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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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20 APR 2007

Antonelli, Terry, Stout & Kraus, LLP
1300 North Seventeenth Street
Suite 1800
Arlington,VA 22209-3873

In re Application of
YAMADA et al.
Application No.: 10/560,102
PCT No.: PCT/JP04/08498
Int. Filing Date: 10 June 2004
Priority Date: 10 June 2003
Attorney Docket No.:506.45680X00
For: SEASONING

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 13 February 2007 in the above-captioned application is hereby **GRANTED** as follows:

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

COPY MAILED

NOV 21 2007

OFFICE OF PETITIONS

In re Application of :

OWEN, DAVID A. et al. :
Application No. 10/560,119 : DECISION ON PETITION
Filed: May 17, 2006 : TO WITHDRAW
Attorney Docket No. **CELL-0311** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 10, 2007.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, Woodcock Washburn no longer represents this client, do not meet any the conditions set forth in 37 CFR 10.40.

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MICHAEL S. GREENFIELD**
MCDONNELL, BOEHNEN HULBERT &
BERGHOFF LLP
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

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HISCOCK & BARCLAY, LLP
ONE PARK PLACE
300 SOUTH STATE STREET
SYRACUSE, NY 13202-2078

COPY MAILED
MAR 09 2010

In re Application of :
David Bergman et al :
Application No. 10/560,138 : DECISION ON PETITION
Filed: March 7, 2007 : TO WITHDRAW
Attorney Docket No. 3044373 US01 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed October 30, 2009.

The request is **APPROVED**.

A review of the file record indicates that Michael R. Ward: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Michael R. Ward has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Michael R. Ward
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482

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17 NOV 2006

McDonnell Boehnen Hulbert & Berghoff, LLP
300 South Wacker Drive
32nd Floor
Chicago, IL 60606

In re Application of
KOO, WOO SEOG
Application No.: 10/560,142
PCT No.: PCT/KR04/01856
Int. Filing Date: 23 July 2004
Priority Date: 24 July 2003
Attorney Docket No.: 05-434-B
For: METHOD FOR ESTABLISHING AN ATM TRAFFIC CHANNEL PATH BETWEEN A BSC AND A BTS IN AN EV-DO SYSTEM

DECISION ON PETITION

This decision is issued in response to applicant's "Petition under 37 CFR 1.47(b) By Person Having Proprietary Interest to File Application on Behalf of Inventor" filed 02 November 2006. The petition fee has been submitted.

BACKGROUND

On 23 July 2004, applicant filed international application PCT/KR04/01856 which claimed a priority date of 24 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 February 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 24 January 2006.

On 09 December 2005, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a copy of the international search report.

On 27 April 2006, the United States Designated/Elected Office mailed "Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required.

On 02 November 2006, applicant filed the present petition under 37 CFR 1.47(b).

DISCUSSION

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

Concerning Item (5), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. MPEP 409.03(f).

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

The present petition states that the inventor Woo Seog Koo assigned the invention to Hyundai Syscomm, Inc. ("Hyundai") and that Hyundai subsequently assigned the invention to UTStarcomm Korea Limited ("UTStarcomm"). Petitioner has adequately demonstrated a transfer of title from Hyundai to UTStarcomm, however, additional evidence concerning the purported assignment from Woo Seog Koo to Hyundai is required. Specifically, the "Employee's Declaration of Invention" does not list the U.S. application number, the PCT application number, or the priority application number. Although the document lists Hyundai reference number and the title of invention, this information by itself does not adequately demonstration that the present invention was subject of the assignment.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Woo Seog Koo under 37 CFR 1.47(b) at this time.

CONCLUSION

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

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

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450,

Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
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30 JAN 2007

McDonnell Boehnen Hulbert & Berghoff, LLP
300 South Wacker Drive
32nd Floor
Chicago, IL 60606

In re Application of
KOO, WOO SEOG
Application No.: 10/560,142
PCT No.: PCT/KR04/01856
Int. Filing Date: 23 July 2004
Priority Date: 24 July 2003
Attorney Docket No.: 05-434-B
For: METHOD FOR ESTABLISHING AN ATM TRAFFIC CHANNEL PATH BETWEEN A BSC AND A BTS IN AN EV-DO SYSTEM

DECISION ON PETITION

This decision is issued in response to applicant's "Renewed Petition under 37 CFR 1.47(b)" filed 17 January 2007. The petition fee has been submitted.

BACKGROUND

On 23 July 2004, applicant filed international application PCT/KR04/01856 which claimed a priority date of 24 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 February 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 24 January 2006.

On 09 December 2005, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a copy of the international search report.

On 27 April 2006, the United States Designated/Elected Office mailed "Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required.

On 02 November 2006, applicant filed a petition under 37 CFR 1.47(b). In a decision dated 17 November 2006, applicant's petition under 37 CFR 1.47(b) was dismissed without prejudice.

On 17 January 2007, applicant filed the present renewed petition under 37 CFR 1.47(b).

DISCUSSION

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

Concerning Item (5), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. MPEP 409.03(f).

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

The present petition states that the inventor Woo Seog Koo assigned the invention to Hyundai Syscomm, Inc. ("Hyundai") and that Hyundai subsequently assigned the invention to UTStarcomm Korea Limited ("UTStarcomm"). Petitioner has previously demonstrated a transfer of title from Hyundai to UTStarcomm. Furthermore, the renewed petition includes an appropriate legal memorandum from attorney Joo-Young Kim which states that Hyundai would have title to the present invention instead of inventor Koo. Therefore, a chain of time from Woo Seog Koo to UTStarcomm has been sufficiently established.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Woo Seog Koo under 37 CFR 1.47(b) at this time.

CONCLUSION

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

The application will be given an international filing date of 23 July 2004 under 35 U.S.C. 363, and a date of 02 November 2006 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

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

Anthony Smith
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Office of PCT Legal Administration
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0 9 JAN 2007

William J. Sapone
Coleman Sudol Sapone P.C.
714 Colorado Avenue
Bridgeport, CT 06605

In re Application of
Verra et al.
Application No. 10/560,146
PCT No.: PCT/FR04/01446
Int. Filing Date: 10 June 2004
Priority Date: 12 June 2003
Atty. Docket No.: 377/9-2182
For: Bone Marrow Aspiration Trocar

COMMUNICATION

This is in response to the "Petition Under 37 CFR 1.47(b)..." filed on 06 October 2006 and the "Petition To Withdraw Petition" filed on 14 November 2006.

DISCUSSION

In a Communication mailed on 03 April 2006, it was noted that

Review of the declaration of the inventors filed on 09 December 2005 reveals that it names two inventors, Hacene ZERAZHI and Borhane SLAMA, who are also named in the published international application. Further inspection of the published international application reveals that it refers to another inventor (Yvan Verre), not nominated by the declaration, as "l'inventeur décédé." Counsel is required to remedy this discrepancy. In the event that Mr. Verre was not properly named as an inventor, counsel may wish to proceed under 37 CFR 1.497(d). Alternatively, 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.

In the event that counsel elects to proceed under 37 CFR 1.42, care should be taken to ensure that the declaration provides citizenship, residence and postal address information for both the legal representative(s) *and* for the deceased inventor.

In response, petitioner has filed the two instant petitions. Both petitions will be considered together in addressing the issues arising under 37 CFR 1.47 and 1.42, respectively.

Petition Under 37 CFR 1.47(a)

As a preliminary matter, the petition filed on 06 October 2006 properly should have been brought under 37 CFR 1.47(a), since at least one of the joint inventors executed the declaration. Therefore, the 06 October 2006 petition will be treated as a petition under 37 CFR 1.47(a).

The petition filed on 14 November 2006 in essence states that the petition filed on 06 October 2006 is moot because "counsel continued to attempt to contact the heirs of the deceased co-inventor, Yvan Verra, and contact was established... a copy of the fully executed declaration is enclosed herewith." Inspection of the declaration filed on 14 November 2006 reveals that has been executed by inventors Borhane Slama and Hacene Zerazhi, as well as by three "heirs" of' the deceased inventor." As such, the petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

Submission Under 37 CFR 1.42

Review of the record, including the declaration filed on 14 November 2006, reveals that joint inventor Yvan Verra 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 14 November 2006 reveals that Ollivier Verra, Florence Verra and Raphael Verra have signed in the capacity of "first," "second," and "third of three of the deceased inventor's sole heirs," respectively. This language does not unambiguously indicate that those three heirs are in fact ***all*** of the "sole heirs;" rather, the concept of "three of the deceased inventor's sole heirs" admits the possibility that the class of "the deceased inventor's sole heirs" includes more than three members, and that only a subset of "three of' those members have signed. In the absence of a statement that the three heirs who executed the declaration on behalf of Yvan Verra in fact are "all" of the heirs of Yvan Verra, it would not be appropriate to accept the declaration under 37 CFR 1.42 at this time.

It is noted that the declaration provides "the facts which the inventor would have been required to state" in that Yvan Verra's citizenship, residence and mailing address information is

provided. Moreover, the declaration also includes the citizenship, residence and mailing address data for each of the heirs signing on behalf of Yvan Verra.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

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). 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.

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United States Patent and Trademark Office

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18 MAY 2007

William J. Sapone
Coleman Sudol Sapone P.C.
714 Colorado Avenue
Bridgeport, CT 06605-1601

In re Application of
Verra et al.
Application No. 10/560,146
PCT No.: PCT/FR04/01446
Int. Filing Date: 10 June 2004
Priority Date: 12 June 2003
Atty. Docket No.: 377/9-2182
For: Bone Marrow Aspiration Trocar

COMMUNICATION

This is in response to the "Petition To Invoke The Supervisory Authority Of The Director" filed on 08 March 2007.

DISCUSSION

In a decision mailed on 09 January 2007, the declaration filed on 14 November 2006 was not accepted under 37 CFR 1.42, without prejudice, because

> Further examination of the declaration filed on 14 November 2006 reveals that Ollivier Verra, Florence Verra and Raphael Verra have signed in the capacity of "first," "second," and "third of three of the deceased inventor's sole heirs," respectively. This language does not unambiguously indicate that those three heirs are in fact ***all*** of the "sole heirs;" rather, the concept of "three of the deceased inventor's sole heirs" admits the possibility that the class of "the deceased inventor's sole heirs" includes more than three members, and that only a subset of "three of" those members have signed. In the absence of a statement that the three heirs who executed the declaration on behalf of Yvan Verra in fact are "all" of the heirs of Yvan Verra, it would not be appropriate to accept the declaration under 37 CFR 1.42 at this time.
>
> It is noted that the declaration provides "the facts which the inventor would have been required to state" in that Yvan Verra's citizenship, residence and mailing address information is provided. Moreover, the declaration also includes the citizenship, residence and mailing address data for each of the heirs signing on behalf of Yvan Verra.

Petitioner urges that the declaration filed on 14 November 2006 be accepted because

> No section of the Manual of Patent Examining Procedure (MPEP), nor of 37 C.F.R. 1.42 use the terms "all the heirs" or the "sole heirs", nor is there a requirement that this be stated in the inventor declaration: MPEP 409.01(a) "Application may be made by the heirs of the inventor... MPEP 409.01(d) "Hence, the person having authority corresponding to that of executor... for example, the heirs in the Federal Republic of Germany..."
>
> There is no requirement that the Declaration be totally unambiguous, by law or rule, and it is instead sufficient according to the law and rule to clearly state that the signatories are "the heirs" of the deceased inventor. Moreover, such a Declaration, signed by the heirs, will be accepted at face value. Proof of authorization is not required. According

to MPEP 409.01(d), it is up to those signing to be sure that they are acting with proper authority, and so long as they are properly identified by name, address and citizenship, no more is required. By their signatures, the heirs are representing that they are authorized to proceed on behalf of the deceased inventor.

Petitioner is advised that the objection to the declaration raised in the 09 January 2007 decision was precisely that the set of "heirs" had not been properly identified, in that the record lacked any direct and explicit indication that the set of "heirs" signing the declaration in fact included *all* of the heirs. USPTO policy provides that, where no legal representative has been appointed or is required by the applicable law to be appointed, the application may be executed by *all* of the deceased inventor's heirs. Under these circumstances, acceptance of the declaration requires an unambiguous indication, either on the declaration document itself or on an accompanying statement from the heirs or their counsel, that those signing are all of the heirs. In the instant application, the first clear indication that all of the heirs had executed the declaration appears on page 3 of the instant petition: "there are only three 'sole heirs'."

Further inspection of the declaration document filed on 14 November 2006 reveals that Ollivier Verra, Florence Verra and Raphael Verra are not only represented to be heirs; they also have been nominated as the 4th, 5th and 6th inventors, respectively. Since the declaration nominates an inventive entity differing from that appearing in the published international application, and since neither evidence of the recording of a change under PCT Rule 92*bis* nor a grantable submission under 37 CFR 1.497(d) has been submitted, it would not be appropriate to accept the declaration filed on 14 November 2006 at this time.

CONCLUSION

The declaration filed on 14 November 2006 is **NOT ACCEPTED** under 37 CFR 1.42, without prejudice.

The petition for supervisory review 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 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.

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Leonard Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

13 MAR 2008

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William J. Sapone
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714 Colorado Avenue
Bridgeport, CT 06605-1601

In re Application of
Verra et al.
Application No. 10/560,146
PCT No.: PCT/FR04/01446
Int. Filing Date: 10 June 2004
Priority Date: 12 June 2003
Atty. Docket No.: 377/9-2182
For: Bone Marrow Aspiration Trocar

DECISION

This is in response to the "Submission of New Declaration" filed on 22 October 2007, which is in effect a renewed submission under 37 CFR 1.42.

DISCUSSION

In a decision mailed on 18 May 2007, the declaration filed on 14 November 2006 was not accepted under 37 CFR 1.42, without prejudice, because

> Ollivier Verra, Florence Verra and Raphael Verra are not only represented to be heirs; they also have been nominated as the 4th, 5th and 6th inventors, respectively. Since the declaration nominates an inventive entity differing from that appearing in the published international application, and since neither evidence of the recording of a change under PCT Rule 92*bis* nor a grantable submission under 37 CFR 1.497(d) has been submitted, it would not be appropriate to accept the declaration filed on 14 November 2006 at this time.

In response, applicants have provided a new declaration which satisfies the requirements of 37 CFR 1.497(a) and (b).

CONCLUSION

The declaration filed on 22 October 2007 is **ACCEPTED** under 37 CFR 1.42.

This application is being forwarded to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **22 October 2007**.

/George Dombroske/
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FRASER CLEMENS MARTIN & MILLER LLC
28366 KENSINGTON LANE
PERRYSBURG OH 43551

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AUG 29 2008

OFFICE OF PETITIONS

In re Patent No. 7,354,538
Issued: April 8, 2008
Application No. 10/560,161
Filed: April 7, 2006
Attorney Docket Number: 1-36739

ON PETITION

This is a decision on the petition under 37 CFR 1.323 for a certificate of correction, filed June 27, 2008, to correct the assignees' names on the front of the Patent. The request is being treated as a request under 37 CFR 3.81(b)[1].

The petition is **DISMISSED**.

Petitioner argues that although the Issue Fee Transmittal (PTOL-85B) filed February 19, 2008 only listed one assignee, there in fact is one other assignee that should have been listed. Accordingly, petitioner argues that the Patent incorrectly issued in the name of only one assignee and requests that a certificate of correction be issued to correctly identify the assignees.

Pursuant to the Reel/Frame No. information provided in the petition, the assignment to AGR INTERNATIONAL, INC. (Reel No. 021109/Frame No. 0916) was not recorded until June 12, 2008 which was after the patent issued on April 8, 2008.

What is printed on the face of the patent is the information printed on the PTOL-85(b). A certificate of correction would be in order if the information provided on the PTOL-85(b) was different from that included in the Office assignment records and it could be proven that the correct assignment information was recorded prior to the payment of the issue fee.

37 CFR 3.81(b), effective June 25, 2004, reads:

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[1] *See* Official Gazette of June 22, 2004

> *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.

Since petitioners have not provided any evidence that the assignment was submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.[2]

The petition fee in the amount of $130.00 has been charged to deposit account no. 50-3156 for the petition under 37 CFR 3.81.

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

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

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[2]See also MPEP 307.

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30 NOV 2006

Mark DiPietro
Merchant & Gould, P.C.
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Minneapolis, MN 55402-0903

In re Application of	:	
BOSSARD, et al.	:	DECISION ON PETITION
Serial No.: 10/560,191	:	
PCT No.: PCT/GB04/01683	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 19 April 2004	:	
Priority Date: 06 June 2003	:	
Atty Docket No.: 15261.0003USWO	:	
For: DEVICE AND METHOD FOR REMOVING A COMPOSITION FROM THE SKIN	:	

This decision is in response to the applicant's petition under 37 C.F.R. § 1.47(a) filed 03 April 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 19 April 2004, applicant filed international application PCT/GB04/01683 which claimed priority to an earlier application filed 06 June 2003. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 16 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 December 2005.

On 05 December 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 March 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.

On 03 April 2006, applicant filed the present petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of joint inventor Andrew Robert McLeish. Applicant is advised that pursuant to 37 CFR 1.17(g), the petition fee is $200.00. As authorized, the fee will be charged to deposit account 13-2725.

DISCUSSION

Applicant is advised that 37 CFR 1.47 applies only where a **known** legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. In such cases, the last known address of the legal representative must be given (see MPEP § 409.03(e)). In the present case, for the reasons detailed in the petition and supporting papers, applicant has not provided any information regarding the deceased inventor's legal representative. As such, the petition under 37 CFR 1.47 to accept the application without the legal representative is inappropriate pursuant to MPEP 409.03(c). Applicant's exhibit letter of 03 March 2005 from Mr. Paul M. Hewitt states that executors to the estate of the McLeishs should be entitled to obtain the grant in respect of the estate within "3 to 4 months." Therefore, it is reasonable to assume that the matter has been settled by now. In order to proceed under 35 U.S.C. 371, applicant must seek Mr. McLeish's current legal representative or heirs. Where there is no legal representative to the estate, any court of competent jurisdiction should appoint the legal representative for the sole purpose of prosecuting the application.

In a similar vein, the filed declaration does not comply with 37 CFR 1.497(a)-(b) in that no information has been provided on the declaration for the legal representative or heir(s). The filed declaration lists Mr. McLeish with his signature block left unsigned leaving the impression that he is refusing to execute the declaration rather than the fact that he 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."

In order to proceed under 37 CFR 1.47(a), applicant is required to identify the non-signing party, i.e. the legal representative as detailed above. 37 CFR 1.497(b) requires that the declaration identify and provide the citizenship for both the deceased inventor and the legal representative. Accordingly, the petition under 37 CFR 1.47(a) is dismissed.

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.

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11/30/2006 SBASHEIR 00000001 132725 10560191
Sale Ref: 00000001 DA#: 132725 10560191
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29 MAR 2007

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Mark DiPietro
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Minneapolis, MN 55402-0903

In re Application of	:	
BOSSARD, et al.	:	DECISION ON RENEWED
Serial No.: 10/560,191	:	
PCT No.: PCT/GB04/01683	:	PETITION UNDER
Int. Filing Date: 19 April 2004	:	
Priority Date: 06 June 2003	:	37 CFR 1.47(a)
Atty Docket No.: 15261.0003USWO	:	
For: DEVICE AND METHOD FOR REMOVING A COMPOSITION FROM THE SKIN	:	

This decision is in response to the applicant's renewed petition under 37 C.F.R. § 1.47(a) filed 23 February 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 30 November 2006, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration and informed that extensions of time were permitted pursuant to 37 CFR 1.136(a).

On 23 February 2006, applicant filed the present renewed petition under 37 CFR 1.47(a). As authorized, the $120.00 one-month extension of time fee will be charged to deposit account 13-2725. The present response is considered timely filed.

DISCUSSION

I. Renewed Petition Under 37 CFR 1.47(a)

As applicant has located the legal representative to the estate of Andrew Robert McLeish and she has executed a combined declaration and power of attorney, the renewed petition under 37 CFR 1.47(a) is dismissed as moot.

The filing of the declaration executed by Ms. Barbara Jenman as legal representative to the estate of Andrew Robert McLeish is being considered as a request for status under 37 CFR 1.42. No petition fee is required.

II. Request For Status Under 37 CFR 1.42

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 filed declaration is executed by Barbara Jenman on behalf of deceased joint inventor Andrew Robert McLeish. However the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that the declaration only sets forth the residence, citizenship and post office address for Andrew Robert McLeish. In order to comply with 37 CFR 1.497(b), this information must be provided for both the deceased inventor and the legal representative.

CONCLUSION

For the reasons stated above, applicant's renewed petition under 37 CFR 1.47(a) is **DISMISSED as moot**.

The petition under 37 CFR 1.42 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 1.42." Extensions of time may be obtained under 37 CFR 1.136(a).

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

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30 AUG 2007

Mark DiPietro
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Minneapolis, MN 55402-0903

In re Application of :
BOSSARD, et al. : DECISION ON RENEWED
Application No.: 10/560,191 :
PCT No.: PCT/GB04/01683 : PETITION UNDER
Int. Filing Date: 19 April 2004 :
Priority Date: 06 June 2003 : 37 CFR 1.42
Attorney Docket No.: 15261.0003USWO :
For: DEVICE AND METHOD FOR :
REMOVING A COMPOSITION FROM :
THE SKIN :

This decision is in response to applicant's communication filed 03 May 2007 in the United States Patent and Trademark Office (USPTO). The communication is being treated as a renewed request for status under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 29 March 2007, applicant was mailed a decision dismissing applicant's request for status under 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 03 May 2007, applicant filed the present response.

DISCUSSION

As detailed in the decision mailed 29 March 2007, 37 CFR 1.42 states:

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

A review of the presently filed declaration finds that it is in compliance with 37 CFR 1.497 (a)-(b). It has been executed by the executor of the estate of the deceased inventor. In addition, the filed declaration contains the required residence, post office and citizenship information for both the deceased inventor and the executor of his estate.

CONCLUSION

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

This application will be given an international application filing date of 19 April 2004 and a date of **03 May 2007** under 35 U.S.C. 371.

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

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10 JAN 2006

Manu J. Tejwani
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30 Rockefeller Plaza
New York, NY 10112

In re Application of
RUTHERFORD, et al.
Application No.: 10/560,192
PCT No.: PCT/US04/17756
Int. Filing Date: 04 June 2004
Priority Date: 04 June 2003
Attorney Docket No.: A35860-PCT-USA(070457)
For: CUSTOMER AUTHENTICATIONS IN E-COMMERCE TRANSACTIONS

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 08 December 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.

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03 AUG 2006

HARRINGTON & SMITH LLP
4 Research Drive
Shelton, CT 06484-6212

In re Application of:	:	
TAI, Kenny, et al.	:	DECISION ON PETITION UNDER
U.S. Application No.: 10/560,194	:	37 CFR 1.47(a)
PCT No.: PCT/SG2004/000176	:	
International Filing Date: 10 June 2004	:	
Priority Date: 11 June 2003	:	
Attorney's Docket No.: 003D.0083.U1(US)	:	
For: RECEPTACLE CONNECTOR ASSEMBLY FOR IC CARD AND IC CARD CONNECTOR	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(a)" filed 11 April 2006. Applicants have paid the required petition fee.

BACKGROUND

On 10 June 2004, applicants filed international application PCT/SG2003/000176. The international application claimed a priority date of 11 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., 11 December 2005.

On 08 December 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 15 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date was required.

On 11 April 2006, applicants filed a response to the Notification Of Missing Requirements. The submission includes the required surcharge payment and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of inventor Scott LU, whom applicants assert has refused to execute the application.

DISCUSSION

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

Applicants here have submitted the required petition fee, and the petition expressly states the last known address of the 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 the two cooperating inventors and containing an unsigned signature block for the non-signing inventor. This declaration may 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 "[a] copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing 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 sign the application, applicants have provided a statement from attorney Mark Harrington, with supporting documents. The statement provides firsthand evidence that a request for signature, with a copy of the complete application, was forwarded to the last known address of the non-signing inventor via Federal Express, and that no reply was received. However, the inventor's failure to respond to a single mailing, receipt of which has not been confirmed, is insufficient on its own to support a conclusion that the inventor has refused to sign the application.

Mr. Harrington's statement also refers to the separate delivery of the declaration to the non-signing inventor (by the inventor's wife), and a statement of express refusal to sign the

declaration made by the non-signing inventor to an unnamed former co-worker. Applicants have not, however, provided the firsthand evidence required to confirm such facts (for example, a statement from the former co-worker to whom the refusal was made). Absent such firsthand evidence, the express refusal referred to by Mr. Harrington cannot be considered in determining whether the inventor has refused to sign the application.

Applicants must supplement the present submission either with firsthand evidence confirming the inventor's express refusal to execute the application papers, or, in the alternative, additional evidence to confirm that the inventor has constructively refused to sign the application. Any showing of constructive refusal should include evidence that a request for signature, with a copy of the complete application papers, has been provided to the inventor at his current address (for example, a signed delivery receipt, or other evidence that the address being used for the inventor is current). Until such supplemental materials are provided, item (4) is not considered satisfied.

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the additional materials required to satisfy item (4) of a grantable petition, as discussed above. No additional petition fee is required.

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

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

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12 JAN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

12 JAN 2007

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HARRINGTON & SMITH, LLP
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SHELTON CT 06484-6212

In re Application of:
TAI, Kenny, et al.
U.S. Application No.: 10/560,194
PCT No.: PCT/SG2004/000176
International Filing Date10 June 2004
Priority Date: 11 June 2003
Atty's Docket No.: 003D.0083.U1(US)
For: RECEPTACLE CONNECTOR ASSEMBLY FOR IC CARD AND IC CARD CONNECTOR

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Renewed Petition Under 37 CFR 1.47(a)" filed 25 September 2006. No additional petition fee is required.

BACKGROUND

The procedural background for the present application was set forth in the decision mailed herein on 03 August 2006. That decision dismissed applicants' petition under 37 CFR 1.47(a) for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had failed to adequately demonstrate that the non-signing inventor Scott LU had refused to execute the application or cannot be reached after diligent effort.

On 25 September 2006, applicants filed the "Renewed Petition Under 37 CFR 1.47(a)" considered herein.

DISCUSSION

In the original petition, applicants provided a statement, with supporting documents, confirming that a request for signature, with a copy of the complete application, to the last known address of the inventor via Federal Express, and that no reply was received. The petition did not, however, include any confirmation that the non-signing inventor received the mailing (i.e., a signed receipt), nor did it provide any evidence to confirm that the address used was the current address of the non-signing inventor. The petition also referred to an express statement of refusal from the inventor to an unnamed former co-worker, but no firsthand evidence was provided with respect to this assertion.

The decision mailed 03 August 2006 held that the evidence presented was insufficient to demonstrate that the non-signing inventor had refused to execute the application or could not be located after diligent effort, stating the following:

> Applicants must supplement the present submission either with firsthand evidence confirming the inventor's express refusal to execute the application papers, or, in the alternative, additional evidence to confirm that the inventor has constructively refused to sign the application. Any showing of constructive refusal should include evidence that a request for signature, with a copy of the complete application papers, has been provided to the inventor at his current address (for example, a signed delivery receipt, or other evidence that the address being used for the inventor is current).

The renewed petition does not include the materials required by the prior decision, that is, firsthand evidence supporting the assertion of an express refusal to sign from the inventor or evidence to confirm that the address being used for the non-signing inventor is current and that the inventor has received the application and the request for signature, but failed to reply. Rather, applicants have provided evidence that a second letter was mailed to the inventor at the same address as previously used; again, no evidence of receipt or any confirmation of the accuracy of the address used has been provided. Applicants also argue that the Office has applied an "arbitrary" standard, and that the MPEP only requires a single mailing to the last known address of the inventor in order to demonstrate a refusal to sign.

A prerequisite to claiming a refusal to sign is that a copy of the complete application be mailed to the inventor's last known address; this is to insure that any subsequent refusal to sign the papers by the inventor (whether express or implied) is based on a proper understanding of the application at issue. While multiple mailings are not necessarily required to satisfy this prerequisite, this does not mean that the failure to respond such a mailing, absent additional evidence, constitutes a constructive refusal to sign. Whether or not a constructive refusal has taken place is a determination to be made by the Office based on the sum of the firsthand and documentary evidence presented by the petitioner. Here, as noted in the previous decision, the materials are not sufficient to support a conclusion that the inventor has been provided with a copy of the application papers and refused to execute the application. For example, the present record can just as readily be interpreted as showing that the inventor no longer resides at this address, in which case evidence of a diligent effort to locate the inventor's current address is necessary.

Based on the above, applicants have still failed to provide an adequate showing that the non-signing inventor has refused to execute the application or cannot be located after diligent effort. Further evidence, as discussed above and in the previous decision, must be provided before the final element of a grantable petition can be considered satisfied.

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.47(a)" and must include the additional materials required to satisfy item (4) of a grantable petition, as discussed above and in the previous decision. No additional petition fee is required.

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

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

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

0 8 JUN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of	:	
TAI, Kenny et al.	:	DECISION ON
Application No.: 10/560,194	:	
PCT No.: PCT/SG04/00176	:	RENEWED PETITION
Int. Filing Date: 10 June 2004	:	
Priority Date: 11 June 2003	:	UNDER 37 CFR 1.47(a)
Attorney's Docket No.: 003D.0083.U1(US)	:	
For: Receptacle Connector Assembly for IC Card and IC Card Connector	:	

This is a decision on applicant's "Petition Under 37 C.F.R. 1.181 To Invoke the Supervisory Authority of the Commissioner," filed in the United States Patent and Trademark Office on 29 January 2007. The petition will be treated as a renewed petition under 37 CFR 1.47(a) to accept the declaration on behalf of non-signing inventor Scott Lu. No petition fee is due.

BACKGROUND

On 10 June 2004, applicants filed international application PCT/SG04/00176, claiming a priority date of 11 June 2003. The thirty-month for paying the basic national fee in the United States expired at midnight on 11 December 2005.

On 08 December 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the requisite basic national fee.

On 15 March 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 11 April 2006, applicants filed a response to the Notification of Missing Requirements including, a declaration executed by Kenny Tai and Maslow Lin, a petition under 37 CFR 1.47(a) requesting acceptance of the declaration on behalf of the non-signing inventor Scott Lu and, a check for $330 to cover the required petition fee ($200) and surcharge for late filing of the oath or declaration ($130).

On 03 August 2006, the Office mailed the "Decision On Petition Under 37 CFR 1.47(a)," dismissing applicants' petition without prejudice. Although the submitted evidence indicated that a copy of the application had been sent to non-signing inventor Scott Lu, because the receipt of the papers was unconfirmed and only a single mailing had been attempted, the Decision found that the evidence, as a whole, did not support the conclusion that the inventor refuses to execute the declaration in the present application. Further, the Decision indicated that because applicants have not provided firsthand evidence that non-signing inventor Scott Lu has made an express refusal, it cannot be concluded that the inventor has constructively refused to sign the application.

On 25 September 2006, applicants filed a "Renewed Petition Under 37 CFR 1.47(a)" requesting acceptance of the declaration on behalf of the non-signing inventor Scott Lu and providing a copy of a second letter mailed to non-signing inventor Scott Lu showing that a second copy of the application papers were being mailed.

On 12 January 2007, the Office mailed the "Decision On Renewed Petition Under 37 CFR 1.47(a)," dismissing applicants' petition without prejudice. Because applicants did not provide additional evidence of receipt of the application papers by non-signing inventor Scott Lu or any confirmation of the accuracy of address of non-signing inventor Scott Lu, the Decision found that the submitted evidence as a whole did not support the conclusion that the inventor refuses to execute the declaration in the present application.

On 29 January 2007, applicants filed a "Petition Under 37 C.F.R. 1.181 To Invoke the Supervisory Authority of the Commissioner," requesting acceptance of the declaration on behalf of the non-signing inventor Scott Lu and, copies of receipts confirming that the mailings of 07 February 2006 and 08 August 2006 at the last known address of non-signing inventor Scott Lu have been received.

DISCUSSION

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

As to items (1) and (2), applicants have submitted the correct petition fee of $200.00 under 37 CFR 1.17(g) and a statement of the last known address of the non-signing inventor.

With regard to item (3), applicants have filed a declaration executed by the other cooperating inventors and containing an unsigned signature block for the non-signing inventor. This declaration complies with 37 CFR 1.497(a)-(b) and is accepted. Hence, item (3) is satisfied.

With regard to item (4), copies of the Federal Express tracking confirmations are sufficient to show that the application papers were mailed to the last known address of non-signing inventor Scott Lu and that they have been received. Further, the fact that the mailings of 07 February 2006 and 08 August 2006 were not returned to the sender is sufficient evidence to show that the last known address of non-signing inventor Scott Lu is the current address. As such, item (4) is satisfied.

CONCLUSION

Applicants' renewed petition filed under 37 C.F.R. 1.47(a) is **GRANTED.**

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

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

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

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

0 8 JUN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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Scott Lu
72-20, Fu-An 2nd Street
Chung Li, Tao Yuan
Taiwan 320

In re Application of
TAI, Keny et al.
Application No.: 10/560,194
PCT No.: PCT/SG04/00176
Int. Filing Date: 10 June 2004
Priority Date: 11 June 2003
Attorney's Docket No.: 003D.0083.U1(US)
For: Receptacle Connector Assembly for IC Card and IC Card Connector

Dear Mr. Lu:

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. 118. Should a patent be granted, you will be designated as an inventor.

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

Leonard Smith
PCT Legal Examiner
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Stefan Staicovici
PCT Legal Examiner
Office of PCT Legal Administration
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United States Patent and Trademark Office

25 JAN 2006

Commissioner for Patents
United States Patent and Trademark Office
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Robert C. Faber
Ostrolenk, Faber, Gerb & Soffen, LLP
1180 Avenue of the Americas
New York, NY 10036

In re Application of	:	
Hanuliak	:	
Application No.: 10/560,206	:	DECISION
PCT No.: PCT/CZ04/00019	:	
Int. Filing Date: 02 April 2004	:	ON
Priority Date: 03 April 2003	:	
Attorney Docket No.: P/1926-25	:	PETITION
For: Safety Air Bag	:	

The petition to revive under 37 CFR 1.137(b) filed 09 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the payment of the surcharge under 37 CFR 1.492(h) and the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b).

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
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UNITED STATES PATENT AND TRADEMARK OFFICE

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PARFOMAK, ANDREW N.
NORRIS MCLAUGHLIN & MARCUS PA
875 THIRD AVE, 8TH FLOOR
NEW YORK NY 10022

COPY MAILED

DEC 2 8 2009

OFFICE OF PETITIONS

In re Application of :
Wiedemann et al. :
Application No. 10/560,207 : DECISION ON PETITION
Filed: December 9, 2005 :
Attorney Docket No. 102792-508 (11271P4 US) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the non-final Office action mailed January 7, 2009, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, the application became abandoned on July 8, 2009. A Notice of Abandonment was mailed September 15, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $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 matter is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

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18 JUL 2007

Pyle & Piontek
221 North LaSalle - Room 2036
Chicago, IL 60601

In re Application of
MAYER, Wilhelm
Serial No.: 10/560,222
PCT No.: PCT/AT04/00122
Int. Filing Date: 07 April 2004
Priority Date: 13 June 2003
Atty. Docket No.: VFM-40030
For: ANTI-CLIMBING DEVICE FOR RAILWAY CARRIAGES

DECISION

This decision is issued in response to applicant's "Petition to Withdraw, Cancel or Rescind the Notification of Missing Requirements Mailed on January 18, 2007" filed 15 February 2007, which is being treated as a Petition under 37 CFR 1.181.

BACKGROUND

On 07 April 2004, applicant filed international application PCT/AT04/00122 which claimed a priority date of 13 June 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 December 2004. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 13 December 2005.

On 12 December 2005, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, among others, the requisite basic national fee; translation of the international application; and a preliminary amendment.

On 18 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 that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. Further, the notification indicated that the translation of the international application submitted on 12 December 2005 was defective. Specifically, drawing sheet 1/7 contained text that had not been translated. The notification set a two (2) month period for response.

On 15 February 2007, applicant filed "Petition to Withdraw, Cancel or Rescind the Notification of Missing Requirements Mailed on January 18, 2007" which included a translation of the international application.

DISCUSSION

Applicant states in the present petition, "applicant has investigated the drawings and finds that there was extraneous materials consisting of several words on the first sheet of drawings. Since this extraneous material is not germane or required for this application, applicant is deleting this material from the first sheet of drawings. As stated above, a review of the translation of the international application filed 12 December 2005 included foreign text in the drawings. PCT Rule 49.5(d) states, "[i]f any drawing contains text matter, the translation shall be furnished either in the form of a copy of the original drawing with the translation pasted on the original text matter or in the form of a drawing executed anew." (See also section 1893.01(a)(1) of the Manual of Patent Examining Procedure.) In this case, the translation of the international application filed on 12 December 2005 included untranslated text on drawing sheet 1/7, which is improper. Therefore, the mailing of the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) on 18 January 2007 was proper and applicant's petition to withdraw (cancel or rescind) under 37 CFR 1.181 is dismissed without prejudice.

The (replacement) drawing sheet 1/7 furnished with the present petition is in compliance with PCT Rule 49.5(d). The translation of the international application, which includes replacement drawing sheet 1/7, will be given a receipt date of 15 February 2007.

The $130.00 processing fee under 37 CFR 1.492(i) for providing an English translation later than 30 months from the earliest claimed priority date is still required.

CONCLUSION

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

The period for response set forth in the Notification of Missing Requirements, mailed 18 January 2007, remains in effect for furnishing: 1) an oath or declaration in compliance with 37 CFR 1.497; (2) the $130 surcharge for under 37 CFR 1.497(h) for filing an oath or declaration later 30 months from the earliest claimed priority date; and (3) the $130.00 processing fee under 37 CFR 1.492(i) for providing an English translation later than 30 months from the earliest claimed priority date. Failure to file a proper response in a timely manner will result in ABANDONMENT of the application.

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

1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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

Applicant	: Haruhiko Ikeda	: DECISION ON REQUEST FOR
Patent Number	: 7608477	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/560,223	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **422** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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10 JAN 2006

McKenna Long & Aldridge
1900 K Street, NW
Washington, DC 20006

In re Application of BAEK	:	
Application No.: 10/560,253	:	
PCT No.: PCT/KR04/01261	:	DECISION ON
Int. Filing: 28 May 2004	:	
Priority Date: 30 May 2003	:	PETITION TO REVIVE
Attorney Docket No.: 7950.048.00	:	
For: HOME NETWORK SYSTEM	:	UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 12 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

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

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

Cynthia M. Kratz
Attorney Advisor
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UNITED STATES PATENT AND TRADEMARK OFFICE

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30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

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AUG 0 3 2007

OFFICE OF PETITIONS

Applicant: Lauper et al.
Appl. No.: 10/560,258
International Filing Date: June 10, 2004
Title: CASTING MACHINE
Attorney Docket No.: HRG-PT027 (G 5789pct/us)
Pub. No.: US 2006/0191660 A1
Pub. Date: August 31, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on October 3, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication includes a material error, as the assignee name includes a typographical error.

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

The typographical error in assignee name is an Office error, but it is not a material Office error under 37 CFR 1.221. The error is not a material Office error because the typographical error does not affect the understanding of the publication. The application is clearly understandable to one of ordinary skill in the art reading the application and claims. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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

Applicants should not file requests for corrected publication that include errors in assignment information or missing assignment information. See MPEP § 1130.

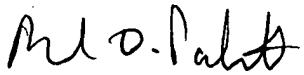
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the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

20 MAR 2008

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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK NY 10110

In re Application of	:	
SEGURA, Dorotea Raventos et al.	:	
Application No.: 10/560,260	:	DECISION ON
PCT No.: PCT/DK2004/000400	:	
Int. Filing Date: 10 June 2004	:	PETITION
Priority Date: 11 June 2003	:	
Attorney Docket No.: 10328.204-US	:	UNDER 37 CFR 1.181
For: ANTIMICROBIAL PEPTIDES	:	

This decision is in response to applicant's "Response To Notice To Comply With Sequence Requirements," filed on 24 January 2008.

BACKGROUND

On 09 December 2005, applicant filed international application PCT/DK2004/000400. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 10 June 2004. The deadline for entry into the national stage in the United States was thirty months from the priority date, 11 December 2005.

On 09 December 2005, applicants filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee and a declaration of the inventors.

On 09 March 2006, the Office mailed Notification to Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures (PCT/DO/EO/922).

On 08 May 2006, applicants supplied a new sequence listing.

On 18 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 09 March 2006.

On 24 January 2008, applicants filed this petition to withdraw the holding of abandonment.

On 14 March 2008, the Office mailed a Notification of Acceptance indicating that the application had a 35 USC 371(c)(1), (c)(2) and (c)(4) date of 09 December 2005 and a Withdrawal of the Notification of Abandonment mailed 18 January 2008.

DISCUSSION

The petition to withdraw the holding of abandonment is moot. The Notification of Abandonment mailed 18 January 2008, issued in error and has been withdrawn.

CONCLUSION

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

The Notification of Acceptance (Form PCT/DO/EO/903) mailed 14 March 2008 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including mailing of a corrected Notification of Acceptance. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date and an all 35 USC 371 requirements date of 09 December 2005.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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2 1 AUG 2008

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HELLER EHRMAN LLP
4350 La Jolla Village Drive, 7th Floor
San Diego CA 92122

In re Application of	
TABIRA, Takeshi et al.	
Application No.: 10/560,280	DECISION ON
PCT No.: PCT/JP2004/008224	
Int. Filing Date: 11 June 2004	PETITION
Priority Date: 13 June 2003	
Attorney Docket No.: 40072-0026US	UNDER 37 CFR 1.181
For: RECOMBINANT ADENO-ASSOCIATED VIRUS VECTOR FOR TREATMENT OF ALZHEIMER DISEASE	

This decision is in response to applicant's Petition Under 37 CFR 1.181 to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office on 17 June 2008.

BACKGROUND

On 12 December 2005, applicants filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 13 March 2006, the Office mailed Notification of Missing Requirements (PCT/DO/EO/905), indicating *inter alia* that a sequence listing in computer readable format was required.

On 26 April 2006, applicants supplied a sequence listing in computer readable format. The Office found the CRF to be technically flawed.

On 07 March 2007, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916) indicating, *inter alia*, that a CRF was still required.

On 09 April 2007, applicants filed a second sequence listing in CRF.

On 20 May 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 13 March 2006.

On 17 June 2008, applicants filed this petition to withdraw the holding of abandonment.

DISCUSSION

The Notification of Abandonment mailed 20 May 2008, issued in error and is hereby vacated. The Office is in receipt of the CRF submitted on 09 April 2007 and the sequence listing has been entered.

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/905) mailed 20 May 2008 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing 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 09 April 2007.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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

MAILED

MAR 11 2010

OFFICE OF PETITIONS

In re Patent No. 7,585,878	:	DECISION ON REQUEST
Kuramochi, et al.	:	FOR
Issue Date: September 8, 2009	:	RECONSIDERATION OF
Application No. 10/560,282	:	PATENT TERM ADJUSTMENT
Filed: December 12, 2005	:	and
Atty Docket No. 308626US0PCT	:	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 five hundred six (506) 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 six (506) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on December 13, 2008 and ends on February 19, 2009, the day before the RCE was filed, and is 69 (not 70) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 505, not 506 days.

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

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

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). 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 five (505) 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 : 7,585,878 B2

DATED : **September 8, 2009** **DRAFT**

INVENTOR(S) : Kuramochi, 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 436 days

Delete the phrase "by 436 days" and insert – by 505 days--

20 NOV 2007

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20 NOV 2007

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Suite 1100
Washington, DC 20001

In re Application of :
BOSE *et al* :
U.S. Application No.: 10/560,285 :
PCT No.: PCT/US2004/018435 :
Int. Filing Date: 10 June 2004 : **DECISION**
Priority Date: 12 June 2003 :
Attorney Docket No.: 003433.00096 :
For: BUSINESS PROCESS AUTOMATION :

This decision is in response to applicants' "Petition Under 37 C.F.R. §1.47(a)" filed 31 August 2007.

BACKGROUND

On 31 January 2007, 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 August 2007, applicants filed the instant petition which was accompanied by, *inter alia*, the petition fee; a five-month extension and fee; the surcharge fee; a declaration executed by four of the seven joint inventors; and exhibits A - K.

DISCUSSION

Applicants claim that three of the seven named inventors either refuse to cooperate, or cannot be located. As such, a petition under 37 CFR 1.47(a) was submitted in response to the Form PCT/DO/EO/905 mailed 31 January 2007.

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

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

With regards to item (3), two addresses for each of the three nonsigning inventors were provided in the petition. This meets the requirements of § 409.03(e) MPEP and is sufficient to satisfy item (3).

Concerning item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by four of the seven named inventors on their own behalf and on behalf of the nonsigning joint inventors. This declaration meets the requirements of section 409.03(a) and is in compliance with 37 CFR 1.497(a) and (b).

Thus, items (1), (3) and (4) of 37 CFR 1.47(a) are satisfied.

Regarding item (2), for co-inventor, Subhra Bose, the 37 CFR 1.47(a) applicants claim that a complete copy of the subject application was provided to two different addresses on 08 February 2006 and on 07 April 2006. There is evidence that Mr. Bose received the mailing by FedEx on 10 April 2006. *See* Exhibit D. Moreover, the 37 CFR 1.47(a) applicants have attempted to contact Mr. Bose using the telephone but have been unsuccessful. The 37 CFR 1.47(a) applicants state that they have not received any communication from Mr. Bose as of 31 August 2007.

Section 409.03(d) of the MPEP discusses a refusal by an inventor to cooperate and states, in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney . . .
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted.

The evidence provided is sufficient to conclude that certain papers were received by Mr. Bose on 10 April 2007. However, the 37 CFR 1.47(a) applicants failed to provide a copy of the cover letter for those documents. As such, there is no direct evidence that a complete copy of the subject application was received by Mr. Bose. A copy of this cover letter should be provided in any renewed petition. Moreover, the 37 CFR 1.47(a) applicants should also submit documentary evidence that a search of the telephone number of Mr. Bose was performed in any renewed petition.

Regarding item (2), for co-inventor, Ziyang Duan, the 37 CFR 1.47(a) applicants claim that two letters containing a copy of the subject application were mailed to two different addresses on 07 February 2006 and 07 April 2006. However, both packages were returned as undeliverable. Petitioners have been unable to contact Mr. Duan any other way.

Applicants' burden in showing that an inventor cannot be located is also explained in section 409.03(d) of the MPEP which states, in part:

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

In this case, petitioners submitted a statement of facts as required. However, petitioners have not made a showing that a diligent effort was made to locate the nonsigning inventor. The people finder search result alone is not sufficient to make such a showing. The 37 CFR 1.47(a) applicants must conduct a search for Mr. Duan and provide documentary evidence(such as internet/telephone searches etc.) in any renewed petition.

Regarding item (2), for co-inventor, Radu Grosu, the 37 CFR 1.47(a) applicants claim that a letter was mailed to the Rocky Point, NY address on 07 February 2006 but was returned as undeliverable. Petitioners then state that they have obtained a business address at Stony Brook University for Mr. Grosu. Petitioners submitted a copy of the subject application on 09 March 2008. The package was signed for by K.

Germana. However, there is no evidence that it was received by Mr. Grosu. Petitioners have also had no luck in reaching Mr. Grosu at his business telephone number as the mail box was full.

Here, there is no direct evidence that Mr. Grosu received a copy of the subject application. Hence, this is also treated as the inventor cannot be located. Therefore, the 37 CFR 1.47(a) applicants should also submit documentary evidence of all searches for Mr. Grosu as indicated above in any renewed petition.

For the reasons noted above, petitioners have not yet satisfied item (2) of 37 CFR 1.47(a) for any of the nonsigning inventors.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

19 AUG 2008

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22907
BANNER & WITCOFF
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Suite 1100
Washington, DC 20001

In re Application of :
BOSE *et al* :
U.S. Application No.: 10/560,285 :
PCT No.: PCT/US2004/018435 : **DECISION**
Int. Filing Date: 10 June 2004 :
Priority Date: 12 June 2003 :
Attorney Docket No.: 003433.00096 :
For: BUSINESS PROCESS AUTOMATION :

This decision is in response to the papers filed 20 June 2008 and 30 June 2008 which are treated as a renewed petition under 37 CFR 1.47(a).

BACKGROUND

On 20 November 2007, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 29 February 2008, a Notice of Abandonment was mailed for failing to respond to the Decision on Petition mailed 20 November 2007.

On 20 June 2008, applicants filed the renewed petition which was accompanied by, *inter alia*, a five-month extension and documentary evidence.

On 30 June 2008, applicants filed a supplement to the renewed petition which included a declaration executed by two of the three nonsigning inventors.

DISCUSSION

Notice of Abandonment

The Notice of Abandonment mailed 29 February 2008 was sent in error. Applicants have extendable rights pursuant to 37 CFR 1.136(a) to respond to the prior decision.

As such, the Notice of Abandonment mailed 29 February 2008 is hereby **VACATED**.

Renewed Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address(es) of the nonsigning joint inventor(s); (4) and an oath or declaration executed by the signing joint inventor(s) on their behalf and on behalf of the nonsigning joint inventor(s). Item (2) was not satisfied in the initial petition.

In the renewed petition, the 37 CFR 1.47(a) applicants have located all three inventors and have managed to obtain the cooperation of two of the three nonsigning inventors. Petitioners provided a declaration executed by Ziyang Duan and Radu Grosu in their supplemental response filed 30 June 2008. This declaration is in compliance with 37 CFR 1.497(a) and (b) and meets the requirements of section 409.03(a) of the MPEP.

With regards to co-inventor, Subhra Bose, the 37 CFR 1.47(a) applicants have obtained updated contact information for Mr. Bose at:

1194 Estates Dr.
Ossining, NY 10562
subhra.bose@gmail.com

The 37 CFR 1.47 applicants sent a complete copy of the subject application to Mr. Bose via email on 10 June 2008, followed by a hard copy to his address on 13 June 2008. Petitioners contacted Mr. Bose using the telephone and email on several occasions. Mr. Bose indicated that he would cooperate and would provide a copy of the Declaration via facsimile on 20 June 2008. However, no response from Mr. Bose has been received as of 30 June 2008. Petitioners included documentary evidence in support of the facts outlined.

Petitioners claim that the conduct of Mr. Bose constitutes a refusal to cooperate. A review of the evidence presented indicates that Mr. Bose received a complete copy of the subject application and has been given ample time to respond. The failure to respond constitutes a refusal to cooperate as contemplated by § 409.03(d)(II) of the MPEP. This is sufficient to satisfy item (2) of 37 CFR 1.47(a).

All items of 37 CFR 1.47(a) are 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 10 June 2004 under 35

U.S.C. 363, and a 35 U.S.C. 371 date of 30 June 2008.

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

19 AUG 2008

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Subhra Bose
1194 Estates Dr.
Ossining, NY 10562

In re Application of
BOSE *et al*
U.S. Application No.: 10/560,285
PCT No.: PCT/US2004/018435
Int. Filing Date: 10 June 2004
Priority Date: 12 June 2003
Attorney Docket No.: 003433.00096
For: BUSINESS PROCESS AUTOMATION

Mr. Bose:

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.

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18 JAN 2006

LOCKE LIDDELL & SAPP LLP
ATTN. DOCKETING
600 TRAVIS #3400
HOUSTON TX 77002

In re Application of	:	
BENKOWSKI et al.	:	
Application No.: 10/560,289	:	DECISION ON
PCT No.: PCT/US03/20268	:	
Int. Filing Date: 26 June 2003	:	PETITION UNDER
Priority Date: 26 June 2002	:	
Attorney Docket No.: 021906-024US	:	37 CFR 1.137(b)
For: METHOD AND SYSTEM FOR PHYSIOLOGIC CONTROL OF A BLOOD PUMP	:	

This decision is in response to applicants' submission filed 12 December 2005.

BACKGROUND

On 26 June 2003, applicants filed international application PCT/US03/20268 which designated the U.S. and claimed a priority date of 26 June 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 08 January 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 December 2004 (26 December 2004 being a Sunday).

On 12 December 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee, an assertion of small entity status, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 12 December 2005.

As to item (2), applicant submitted the petition fee on 12 December 2005.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
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Ross Spencer Garsson
Winstead Sechrest & Minick
P O Box 50784
Dallas, TX 75201

Mail Date: 06/07/2010

Applicant	: James M Tour	: DECISION ON REQUEST FOR
Patent Number	: 7625988	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/560,291	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1023** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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27 NOV 2006

Robert J. Irvine, III
McDonnell Boehnen Hulbert & Berghoff, LLP
300 S. Wacker Drive
32nd Floor
Chicago, IL 60606

In re Application of :
CHO : DECISION ON PETITION
Serial No.: 10/560,297 :
PCT No.: PCT/KR04/01880 : UNDER 37 CFR 1.47(b)
Int. Filing Date: 26 July 2004 :
Priority Date: 25 July 2003 :
Atty Docket No.: 05-429-B :
For: METHOD OF ALLOCATING LINKS IN A :
1X EVDO SYSTEM :

This decision is in response to the "Petition Under 37 CFR § 1.47(b)" filed 07 November 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 26 July 2004, applicant filed international application PCT/KR04/01880, which claimed a priority date of 25 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 February 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 25 January 2006.

On 12 December 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee.

On 02 May 2006, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to 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 07 November 2006, applicant responded with the present petition accompanied by a petition for a four-month extension of time. With the payment of the four-month extension of time fee and certification under 37 CFR 1.8 that the present mailing was deposited on 02 November 2006, 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. Cho." In addition, Mr. Lim states that he was unable to find an email address for Mr. Cho 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. Cho.

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.

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09 FEB 2007

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Chicago, IL 60606

In re Application of	:	
CHO	:	DECISION ON RENEWED
Serial No.: 10/560,297	:	
PCT No.: PCT/KR04/01880	:	PETITION UNDER
Int. Filing Date: 26 July 2004	:	
Priority Date: 25 July 2003	:	37 CFR 1.47(b)
Atty Docket No.: 05-429-B	:	
For: METHOD OF ALLOCATING LINKS IN A 1X EVDO SYSTEM	:	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. 1.47(b)" filed 26 January 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 27 November 2006, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(b) to accept the application without the signature of inventor Kye Cheol CHO. Applicant was afforded two months to file a renewed petition under 37 CFR 1.47(b).

On 26 January 2006, applicant filed the renewed petition under 37 CFR 1.47(b).

DISCUSSION

As detailed in the decision mailed 27 November 2006, 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).

Regarding item (2), applicant previously provided a statement that various searches were performed in an attempt to locate Mr. Cho. Applicant did not include copies of these results with the initial petition. Applicant has presently filed exhibits to support the contention that applicant has not been able to locate the non-signing inventor despite diligent efforts to do so. Regarding

exhibit 3, applicant has filed pages which explain the services available through the "Korea Information Service Corporation (KOIS)." However, applicant has not included the specific search results which show that KOIS failed to provide new information concerning the whereabouts of Mr. Cho. While applicant has provided an additional exhibit (exhibit 4) with an English translation; it appears that these search results are restricted to e-mail addresses. As such, it is not possible to grant applicant's renewed 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

10 MAY 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robert J. Irvine, III
McDonnell Boehnen Hulbert & Berghoff, LLP
300 S. Wacker Drive
32nd Floor
Chicago, IL 60606

In re Application of	:	
CHO	:	DECISION ON RENEWED
Serial No.: 10/560,297	:	
PCT No.: PCT/KR04/01880	:	PETITION UNDER
Int. Filing Date: 26 July 2004	:	
Priority Date: 25 July 2003	:	37 CFR 1.47(b)
Atty Docket No.: 05-429-B	:	
For: METHOD OF ALLOCATING LINKS IN A 1X EVDO SYSTEM	:	

This decision is in response to the "Renewed Petition Under 37 CFR § 1.47(b)" filed 12 April 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 09 February 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(b) to proceed without the signature of inventor Kye Cheol CHO. Applicant was afforded two months to file any request for reconsideration.

On 12 April 2007, applicant filed the present renewed petition. The filing contains a certification under 37 CFR 1.8 that it was deposited for mailing on 09 April 2007 and is therefore considered timely filed.

DISCUSSION

As detailed in the decision mailed 09 February 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 exhibits applicant has satisfied the remaining item.

Therefore, 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(b) is **GRANTED**.

The application has an international filing date of 26 July 2004 under 35 U.S.C. 363, and will be given a date of **07 November 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 04/20/2010

Applicant	: Jean-Paul Rene Marie Andre Bosmans	: DECISION ON REQUEST FOR
Patent Number	: 7652040	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/560,300	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **885** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-04-08

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/560319 Patent No.: 7402581

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: _____

SPE 1624 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

COPY MAILED

MAR 27 2008

OFFICE OF PETITIONS

In re Application of :
David A. Alan et al. :
Application No. 10/560,327 : DECISION ON PETITION
Filed: May 23, 2006 : TO WITHDRAW
Attorney Docket No. **CELL-0310** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 10,2007.

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

A review of the file record indicates that the power of attorney to WOODCOCK WASHBURN LLP has been revoked by the assignee of the patent application on December 10, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WINSTEAD PC
P.O. BOX 50784
DALLAS, TX 75201

Mail Date: 04/21/2010

Applicant	: Valery N. Khabashesku	: DECISION ON REQUEST FOR
Patent Number	: 7632481	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/560,351	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/07/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **860** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CARSTENS & CAHOON, LLP
P O BOX 802334
DALLAS, TX 75380

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MAR 11 2010

In re Application of
David Bryant Batt, et al.
Application No. 10/560,352
Filed: May 12, 2006
Attorney Docket No. CNOVA.00004

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 29, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 23, 2009, which set a shortened statutory period for reply of three (3) months. A four month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 24, 2009.

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

In view of the above, the petition is **GRANTED**.

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.

This application is being referred to Technology Center AU 1624 for appropriate action by the Examiner in the normal course of business on the reply received December 29, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUDY JARECKI-BLACK
MERIAL LTD.
3239 SATELITE BLVD.
3RD FLOOR
DULUTH GA 30096

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FEB 17 2009

OFFICE OF PETITIONS

In re Application of :
Thomas Pitterna et al. :
Application No. 10/560,390 : DECISION ON PETITION
Filed: March 22, 2006 :
Attorney Docket No. MER 70282 :

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

The petition is **GRANTED**.

This application became abandoned for failure to (a) timely pay the issue and publication fees on or before October 7, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed July 7, 2008. Accordingly, the date of abandonment of this application is October 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

There is no indication that petitioner has submitted a Part B-Fee(s) Transmittal form (PTOL-85). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Fee(s) Transmittal form should be completed and returned to the Office of Data Management within **ONE MONTH** from the mail date of this decision.

As authorized, the issue fee payment of $1,510.00 and the publication fee of $300.00 will be charged to petitioner deposit account that is listed in the instant petition.

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

Attachment: Blank Issue Fee Transmittal (PTOL-85(b))

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571) 273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.

TITLE OF INVENTION:

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE

EXAMINER	ART UNIT	CLASS-SUBCLASS

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____.

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. 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 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Alexandria, VA 22313-1450
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DIW Jun-10

VICTOR H SEGURA
SCHLUMBERGER TECHNOLOGY CORPORATION
200 GILLINGHAM LANE
SUGAR LAND TX 77478

MAILED

JUN 22 2010

OFFICE OF PETITIONS

In re Application of :
Jacques Orban :
Application Number: 10/560391 : ON PETITION
Filing Date: 04/11/2006 :
Attorney Docket Number: 21.1179 :
:

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on March 19, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on May 7, 2009, for failure to timely respond to the Office action requiring restriction and/or election mailed on April 6, 2009, which set a one (1) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on November 17, 2009.

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

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

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

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

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

Receipt of the response filed on March 19, 2010 is acknowledged.

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.[2] 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 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 mailed. A courtesy copy of this decision will be 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 application is being referred to Technology Center Art Unit 3672 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

cc:

Juanita Salazar
1939 W. Gray St., Ste 200
Houston TX 77019-4815

---

[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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07 FEB 2006

CONNOLLY BOVE LODGE & HUTZ LLP
1990 M Street N.W., Suite 800
Washington, D.C. 20036-3425

In re Application of:	:	
IAQUINANGELO, Armando	:	DECISION ON PETITION FOR
U.S. Application No.: 10/560,394	:	REVIVAL OF ABANDONED
PCT No.: PCT/EP2004/004895	:	APPLICATION UNDER
International Filing Date: 06 May 2004	:	37 CFR 1.137(b)
Priority Date: 09 May 2003	:	
Attorney's Docket No.: 22106-00107-US1	:	
For: A DEVICE FOR THE MANAGEMENT OF ELECTRICAL SOCKETS	:	

The petition for revival under 37 CFR 1.137(b) filed 13 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statements that "the entire delay in the filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and that "[t]he entire period of abandonment from November 10, 2005 until the filing date of the accompanying Petition to Revive was unintentional" satisfy the requirements of 37 CFR 1.137(b)(3).

Applicant has submitted the small entity basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that the petition was accompanied by an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 22-0185 will be charged the $65 small entity surcharge for filing the declaration later than thirty months from the priority date.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 13 December 2005.

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

07 NOV 2007

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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	:	
KIM	:	
Application No.: 10/560,409	:	DECISION
PCT No.: PCT/KR2004/001408	:	
Int. Filing Date: 14 June 2004	:	
Priority Date: 14 June 2003	:	
Attorney Docket No.: 2443.0050004	:	
For: METHOD FOR MANAGING MEDICAL INFORMATION ONLINE	:	

This decision is in response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 12 October 2007, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 14 June 2004, applicants filed international application PCT/KR2004/001408, which designated the U.S. and claimed a priority date of 14 June 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 23 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 December 2005.

On 13 December 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 08 December 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 applicant must provide an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b). The NOTIFICATION set a two-month extendable period for reply.

On 14 September 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 to the NOTIFICATION OF MISSING REQUIREMENTS mailed 08 December 2006 within the time period set therein.

On 12 October 2007, applicants filed the instant petition under 37 CFR 1.181.

DISCUSSION

If applicant can establish nonreceipt of the Notification mailed 08 December 2006, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A.

The Notification mailed 08 December 2006 was mailed to the law firm of Holland & Hart. However, on 16 August 2006, a proper Change of Correspondence Address was filed changing the address to the law firm of STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C. Thus, the Notification was sent to an incorrect address. Additionally, the petition submitted by applicants 12 October 2007 suggests that the Notification mailed 08 December 2006 was not received. Accordingly, there is sufficient evidence of record to establish that the Notification mailed 08 December 2006 was not received. Accordingly, the Notification mailed 08 December 2006 and the NOTIFICATION OF ABANDONMENT mailed 14 September 2007 are hereby VACATED.

CONCLUSION

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

The Notification mailed 08 December 2006 is VACATED.

The NOTIFICATION OF ABANDONMENT mailed 14 September 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 including preparing and mailing a new NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905).

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

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20 JAN 2006

Toby H Kusmer
McDermott Will & Emery
28 State street
Boston MA 02109

In re Application of	:	
HOWARD, Willis E. III	:	
Application No.: 10/560,440	:	DECISION
PCT No.: PCT/US04/17340	:	
Int. Filing Date: 03 June 2004	:	ON PETITION UNDER
Priority Date: 03 June 2003	:	
Docket No.: BYRK-021 (38484-163)	:	37 CFR 1.137(b)
For: LIGHT SOURCE WAVELENGTH CORRECTION	:	

Applicants' "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 12 December 2005 is **GRANTED**.

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

Applicant supplied a declaration in compliance with 37 CFR 1.497(a)-(b) during the international phase.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 12 December 2005 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4).

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,442	12/13/2005	Masao Mizutani	SONY JP 3.3-394	8879

7590 01/30/2008

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

EXAMINER	
DAM, TUAN QUANG	

ART UNIT	PAPER NUMBER
2192	

MAIL DATE	DELIVERY MODE
01/30/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☑ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Patent Publication Branch
Office of Data Management

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HOGAN & HARTSON LLP
IP GROUP COLUMBIA SQUARE
555 THIRTEENTH STREET NW
WASHINGTON DC 20004

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JUL 14 2009

OFFICE OF PETITIONS

In re Application of :
Lendlein, et al. :
Application No. 10/560,452 : ON PETITION
Filed: June 14, 2006 :
Attorney Docket No. 26538-0016 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 17, 2009.

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

The above-identified application became abandoned for failure to timely file a reply in response to the final Office action, mailed October 30, 2008. This Office action set a shortened statutory period for reply of three months. Applicant filed an Amendment on April 30, 2009, made timely by obtaining a three month extension of time. However, in an Advisory Action mailed on May 21, 2009, the Examiner informed Applicant that the Amendment did not place the application in condition for allowance. Accordingly, the application became abandoned on May 1, 2009. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of an RCE.

The application is being forwarded to Group Art Unit 3731 for consideration of the RCE, filed June 17, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

0 8 JUL 2008

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Gordon E Nelson
57 Central Street
P O box 782
Rowley MA 01969

In re Application of :
VANIER :
Application No.: 10/560,462 :
PCT No.: PCT/US04/19695 : DECISION ON PETITION
Int. Filing Date: 18 June 2004 :
Priority Date: 19 June 2003 : UNDER 37 CFR 1.137(b)
Atty. Docket No.: kernco01.008 :
For: DETERMINING THE FREQUENCY MODULA- :
TION INDEX OF A LASER IN A CPT :
FREQUENCY STANDARD :

The petition to revive under 37 CFR 1.137(b) filed 10 December 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" 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 an explanation as to the correct inventive entity. 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 18 June 2004 under 35 U.S.C. 363 and will be given a date of **14 December 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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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 04/20/2010

Applicant	: Jean-Paul René Marie André Bosmans	: DECISION ON REQUEST FOR
Patent Number	: 7638535	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/560,479	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **881** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Weixiao Liu	: DECISION ON REQUEST FOR
Patent Number	: 7652999	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/560,480	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **823** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 04/20/2010

Applicant	: Jean-Paul Rene Marie Andre Bosmans	: DECISION ON REQUEST FOR
Patent Number	: 7635706	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/560,485	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **916** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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DEC 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Wolfgang Orgeldinger	:	
Application No. 10/560,487	:	DECISION ON PETITION
Filed: December 12, 2005	:	
Attorney Docket No. F-8862	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 30, 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 March 9, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 10, 2009. A Notice of Abandonment was mailed November 6, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Restriction Requirement, (2) the petition fee of $1,620.00 and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-7751.

This application is being referred to Technology Center AU 3781 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

21 NOV 2006

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PATENT GROUP GA030-43
GEORGIA-PACIFIC CORPORATION
133 PEACHTREE STREET, N.E.
ATLANTA GA 30303-1847

In Re Application of
MALECOT et al.
Application No.: 10/560,493
PCT No.: PCT/FR03/01776
Int. Filing Date: 12 June 2003
Priority Date: None
Attorney Docket No.: 20125 (428 PCT)
For: CENTRE-FEED ROLL AND PRODUCTION METHODS THEREOF

DECISION

This is a decision on applicant's PETITION UNDER 37 CFR 1.181 to Reset Period for Reply, requesting withdrawal of the Notification of Missing Requirements. The petition was filed in the United States Patent and Trademark Office (USPTO) on 30 August 2006.

On 12 June 2003, applicant filed international application No. PCT/FR03/01776, which designated the United States and did not claim priority. Thereafter, on 12 December 2005, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee.

On 10 April 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), was required. However, the Notification was mailed to an incorrect address. After applicant's inquiry to the PCT Help Desk, a communication from the PCT Help Desk was sent to applicant providing a copy of the 905 and indicating that a petition under 37 CFR 1.181 could be submitted to request re-mailing of the 905.

On 30 August 2006, applicant filed the instant petition indicating that the Notification of Missing Requirements was mailed to an incorrect address. Applicant indicated that through an inquiry to the PCT Help Desk, he discovered this error. Applicant requested that the Form PCT/DO/EO/905 mailed on 10 April 2006 be vacated and that a new Notification be sent.

On 11 November 2006, applicant submitted a Response to the 10 April 2006 Notification of Missing Requirements along with an executed declaration and the $130 surcharge for filing the declaration after the thirty month period.

DISCUSSION

A review of the application reveals that the Notification of Missing Requirements was mailed to an incorrect address and is hereby VACATED.

A review of the declaration submitted reveals that the declaration satisfies 37 CFR 1.497(a) as it identifies the inventors and their citizenship. An Application Data Sheet was provided on 12 December 2005 which provided the inventor's mailing address and residency.

A new Notification of Missing Requirements will be not be mailed as applicant has provided a declaration, which meets the requirements of 37 CFR 1.497(a) and (b).

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED AS MOOT**. The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 10 April 2006 is hereby **VACATED.**

The application will be forwarded to the United States Designated/Elected Office for further processing in accord with this decision. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **7 November 2006.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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27 JAN 2006

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Joseph S. Tripoli
THOMSON LICENSING, INC.
Patent Operations
PO Box 5312
Princeton, NJ 08543-5312

In re Application of:	:	
SCHREY, Olaf, et al.	:	DECISION ON PETITION FOR
U.S. Application No.: 10/560,494	:	REVIVAL OF ABANDONED
PCT No.: PCT/EP2003/003094	:	APPLICATION UNDER
International Filing Date: 25 March 2003	:	37 CFR 1.137(b)
Priority Date: None	:	
Attorney's Docket No.: FHG02F40689	:	
For: DETECTION OF	:	
ELECTROMAGNETIC RADIATION	:	

The petition for revival under 37 CFR 1.137(b) filed 12 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in the filing of the application from the due date of September 25, 2005 until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3).

Applicants have submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that the petition was accompanied by an executed declaration in compliance with 37 CFR 1.497 and an English translation of the international application. Deposit Account No. 07-0832 will be charged the $130 surcharge for filing the declaration later than thirty months from the priority date and the $130 processing fee for filing the English translation later than thirty months after the priority date.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 12 December 2005.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
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ROBERT D. SHEDD
THOMSON LICENSING LLC
PO BOX 5312
PRINCETON NJ 08543-5312

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JAN 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Schrey et al.	:	
Application Number: 10/560494	:	ON PETITION
Filing Date: 12/12/2005	:	
Attorney Docket Number:	:	
FHG02F40689	:	

This is a decision on the "PETITION TO COMMISSIONER UNDER 37 C.F.R. 1.183(A) TO CORRECT INVENTORSHIP," filed on October 12, 2007.

The Office apologizes for the delay in responding to the present petition, and regrets any inconvenience to petitioners.

The petition is **dismissed as moot**.

Petitioners state that the fourth named inventor was not listed on the filing receipt mailed on March 17, 2006 due to an Office error.

A review of the declaration filed on December 12, 2005, reveals that the fourth named inventor is **Bedrich Hosticka**.

Furthermore, a review of Office records currently reflect the inventorship as set forth on the declaration filed on December 12, 2005.

A corrected filing receipt is enclosed for petitioner's review.

As the issue fee was paid on December 13, 2007, the application is referred to the Office of Data Management for processing into a patent.

As no petition was necessary, the petition is dismissed as moot, and the petition fee will be credited to counsel's deposit account.

The application is referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/560,494	12/12/2005	2878	1460	FHG02F40689	14	2

CONFIRMATION NO. 3117

CORRECTED FILING RECEIPT

24498
Robert D. Shedd
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PO Box 5312
PRINCETON, NJ 08543-5312

OC000000034181568

Date Mailed: 01/26/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Olaf Schrey, Ratingen, GERMANY;
Ralf Jeremias, Coesfeld, GERMANY;
Werner Brockherde, Duisburg, GERMANY;
Bedrich Hosticka, Duisburg, GERMANY;

Power of Attorney: The patent practitioners associated with Customer Number 24498

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP03/03094 03/25/2003

Foreign Applications

If Required, Foreign Filing License Granted: 03/15/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/560,494**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

DEVICE FOR DETECTING ELECTROMAGNETIC RADIATION

Preliminary Class

250

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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World Trade Center West
155 Seaport Boulevard
Boston MA 02210-2600

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NOV 0 9 2007

OFFICE OF PETITIONS

In re Application of :
Anlmesh Jha :
Application No. 10/560,515 : NOTICE
Filed: December 13, 2005 :
Attorney Docket No. UDX-003.01 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571)272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Irvin Dingle
Petitions Examiner

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World Trade Center West
155 Seaport Boulevard
Boston MA 02210-2600

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OFFICE OF PETITIONS

In re Application of :
Anlmesh Jha :
Application No. 10/560,515 : NOTICE
Filed: December 13, 2005 :
Attorney Docket No. UDX-003.01 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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Inquiries related to this communication should be directed to the undersigned at (571)272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Irvin Dingle
Petitions Examiner

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PATENT DEPT.
DOCKETING

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24 APR 2007

Kevin J. Dunleavy
Knoble Yoshida & Dunleavy, LLC
Eight Penn Center, Suite 1350
1628 John F. Kennedy Boulevard
Philadelphia, PA 19103

In re Application of :
FRIDMAN, et al. :
U.S. Application No.: 10/560,537 : DECISION ON PETITION
PCT No.: PCT/US04/19590 :
Int. Filing Date: 18 June 2004 : 37 CFR 1.181
Priority Date: 20 June 2003 :
Attorney Docket No.: DREX-1002US :
For: VORTEX REACTOR AND METHOD OF USING IT. :

This decision is in response to applicant's request for refund of extension of time payment based on non-receipt of Office action filed 21 April 2007 in the United States Patent and Trademark Office (USPTO). The petition is being treated under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 18 June 2004, applicant filed international application PCT/US04/19590, which claimed priority of an earlier application filed 20 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, 20 December 2005.

On 13 December 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 02 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.

On 28 February 2007, applicant filed a response including an executed declaration of the inventors, payment of the appropriate surcharge for late submission of an executed oath or declaration of the inventors and a request for a five-month extension of time.

On 12 April 2007, applicant filed the petition considered herein requesting a refund of the five-month extension of time fee payment.

DISCUSSION

The Manual of Patent Examining Procedure (MPEP) at 711.03(c) and the Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971). Applicant has satisfied all items listed above showing that the Form PCT/DO/EO/905 mailed 02 August 2006 was not received. As such, it is proper to grant applicant's petition at this time and refund the $1,080.00 extension of time fee payment to deposit account number 50-0462.

CONCLUSION

Applicant's Petition Under 37 CFR 1.181 is **GRANTED**.

This application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision, namely consideration of applicant's 28 February 2007 response.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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19 JUL 2007

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

In re Application of BUI et al :
U.S. Application No.: 10/560,558 :
PCT Application No.: PCT/US2004/018380 :
Int. Filing Date: 10 June 2004 :
Priority Date Claimed: 13 June 2003 : DECISION
Attorney Docket No.: 30915-701.831 :
For: NUTRACEUTICAL FOR THE :
PREVENTION AND TREATMENT OF :
CANCERS AND DISEASES AFFECTING :
THE LIVER :

This is in response to the papers filed 27 December 2006, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 10 June 2004, applicant filed international application PCT/US2004/018380, which claimed priority of an earlier United States application filed 13 June 2003. The thirty-month period for paying the basic national fee in the United States expired on 13 December 2005.

On 12 December 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 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 27 December 2006, applicant filed the present request for status under 37 CFR 1.42 along with an executed declaration.

DISCUSSION

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 27 December 2006 is not executed by the sole heir or legal representative on behalf of the deceased inventor.

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. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed 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

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

28 MAR 2008

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WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

In re Application of BUI et al :
U.S. Application No.: 10/560,558 :
PCT Application No.: PCT/US2004/018380 :
Int. Filing Date: 10 June 2004 :
Priority Date Claimed: 13 June 2003 : DECISION
Attorney Docket No.: 30915-701.831 :
For: NUTRACEUTICAL FOR THE :
PREVENTION AND TREATMENT OF :
CANCERS AND DISEASES AFFECTING :
THE LIVER :

This is in response to the correspondence filed 14 March 2008, which is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 10 June 2004, applicant filed international application PCT/US2004/018380, which claimed priority of an earlier United States application filed 13 June 2003. The thirty-month period for paying the basic national fee in the United States expired on 13 December 2005.

On 12 December 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 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 27 December 2006, applicant filed a request for status under 37 CFR 1.42 along with an executed declaration.

On 19 July 2007, this Office mailed a decision dismissing the 27 December 2006 request for status.

On 27 August 2007, applicant purportedly filed a renewed request for status along with an executed declaration.

On 14 March 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

I. Petition under 37 CFR 1.181

The evidence of record is sufficient to establish that the renewed request for status and declaration were originally filed on 27 August 2007. Specifically, the copy of the return postcard, which includes the renewed request for status and declaration in its itemized contents and which bears a USPTO date stamp of 27 August 2007, serves as prima facie evidence that the renewed request and declaration for status were received by the USPTO on 27 August 2007.

II. Renewed Request for Status under 37 CFR 1.42

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 27 August 2007 is improper because it fails to list all of the inventors as required by 37 CFR 1.497(a)(3).

CONCLUSION

For the reasons in §I above, the petition under 37 CFR 1.181 is GRANTED.

For the reasons in §II above, the renewed 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. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are

available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed 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

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Patent of Blackwell et al.	:	DECISION ON REQUEST
Patent No. 7,572,949	:	FOR RECONSIDERATION OF
Issue Date: August 11, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/560,563	:	AND NOTICE OF INTENT TO
Filing Date: February 15, 2007	:	ISSUE CERTIFICATE OF
Attorney Docket No. 10276-0093US1	:	CORRECTION

This is a decision on the petition filed October 9, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by three hundred ninety-one (391) 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 three hundred ninety-one (391) days is **GRANTED**.

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 **three hundred ninety-one (391)** 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.	:	7,572,949 B2
ISSUE DATE	:	August 11, 2009
INVENTOR(S)	:	Blackwell et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 150 days.

Delete the phrase "by 150 days" and insert - by 391 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : May 28, 2008

Patent No. :7,291,474
Inventor(s) :Mark N. Bobrow
Issued :November 6, 2007
Title :HYRDROLYTIC SUBSTRATES FOR ANY ANALYTE-DEPENDENT ENZ7YME
:ACTIVATION SYSTEM

Consideration has been given your request for the issuance of a certificate of correction for the above identified patent.

Accordingly, applicants' proposed request to change data in column 7, lines 20-22 from that which is presented in the printed patent has been considered unwarranted. The change was the result of an examiners amendment made at the time of allowance and made in accordance with permissible amendments as defined in MPEP 1302.04.

In view of the forgoing your request in this matter is hereby denied. .

Any telephone inquiries concerning this communication should be directed to Ms. A. Green at (703) 308-9390 ext. 123.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9390 Ext. 123

Ronald W. Citkowski
Gifford, Krass, Sprinkle, Anderson & Citkowski, P.C
2701 Troy Center Drive, Ste 330
Post Office Box 7021
Troy, Michigan 48007-7021

/arg

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YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA VA 22314

MAILED

MAR 0 8 2010

OFFICE OF PETITIONS

In re Application of :
Edward SOMEUS :
Application No. 10/560,596 : DECISION ON PETITION
Filed: June 30, 2006 : TO WITHDRAW
Attorney Docket No. 9014-1003 : 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 12, 2010.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because no address has been provided for future correspondence from the Office.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

COPY MAILED

JUL 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Prikhodko et al.	:	
Application No. 10/560,638	:	ON PETITION
Filed: December 13, 2005	:	
Attorney Docket No. NL03 0690 US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 5, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment and Drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2800 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

4/20/09

Patent No. :7469664
Inventor(s) :Peter Hofbauer, et al.
Issued : 12/30/2008
Title : INTERNAL COMBUSTION ENGINE
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals col. 29 claim 1, line 16 &17 is printed in accordance with the record and please show evidence of an amendment or document. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

Bradley M. Ganz
P.O. Box 2200
Hillsboro, OR 97123

HR/MD

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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THOMPSON COBURN LLP
ONE US BANK PLAZA
SUITE 3500
ST LOUIS, MO 63101

Mail Date: 04/20/2010

Applicant	: Paul D. Olivo	: DECISION ON REQUEST FOR
Patent Number	: 7585667	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/560,655	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **294** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

24 JAN 2007

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
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In re Application of:
KIM, June, Man, et al.
U.S. Application No.: 10/560,664
PCT No.: PCT/KR2004/001851
International Filing Date: 23 July 2004
Priority Date: 24 July 2003
Attorney's Docket No.: 05-597-B
For: SYSTEM AND METHOD FOR TRACKING POSITION OF A MOBILE UNIT USING BEACONS IN A MOBILE COMMUNICATION SYSTEM

DECISION ON PETITION UNDER 37 CFR 1.47(b)

This decision is issued in response to the "Petition Under 37 CFR 1.47(b)" filed 19 October 2006. Petitioner has filed the required petition fee.

BACKGROUND

On 23 July 2004, applicants filed international application PCT/KR2004/001851. The application claimed a priority date of 24 July 2003, and it designated the United States. On 03 February 2005, 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., 24 January 2006.

On 13 December 2005, petitioner 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 17 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration acceptable under 37 CFR 1.497 was required.

On 19 October 2006, petitioner filed a response to the Notification Of Missing Requirements, with required four-month extension fee. The response included the petition under 37 CFR 1.47(b) considered herein, which seeks acceptance of the application without the signature of the inventors, whom petitioner states have refused to execute the application papers.

DISCUSSION

A grantable petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing 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 of proprietary interest in the application: and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The present submission satisfies items (1), (3), (4), and (6).

Regarding item (1), petitioner has submitted the required $200 petition fee. Item (1) is therefore satisfied.

Regarding item (2), where it is asserted that the inventors have refused to execute the application papers, section 409.03(d) of the MPEP states that a "copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." Here, petitioner has provided a declaration by Jiwon Lim, with accompanying exhibits, as evidence of the efforts to obtain the signatures of the non-signing inventors. The exhibits include copies (with English translations) of correspondence mailed to the non-signing inventors (the mailing directed to inventor PARK was returned because the address was not current), and email correspondence with inventor PARK; the statement of Jiwon Lim also refers to a firsthand discussion with inventor PARK in which inventor PARK stated that the inventors would not sign the declaration.

The materials provided here are not sufficient to demonstrate that the inventors have refused to execute the application. Petitioner has not provided a showing that a copy of the complete application papers (including the specification, claims, and drawings) has been mailed to the last known addresses of the inventors, as required before a refusal can be claimed (the present submission only states that the declaration and assignment documents were sent to the inventors; there is no reference to the a copy of the application itself).[1] In addition, inventor PARK'S statement of refusal cannot be accepted on behalf of the other inventor, inventor KIM. Confirmation that a request for signature, accompanied by a copy of the complete application, has been mailed to the last known address of both of the inventors, and that the inventors have refused to provide the required signed declaration, is required before it can be concluded that the inventors have refused to execute the application. Accordingly, on the present record, item (2) is not satisfied.

Regarding item (3), the petition includes an express statement of the last known addresses of the non-signing inventors. Item (3) is satisfied.

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[1] It is noted that the copies of these mailings included with the present petition include Korean documents that appear to be application materials; however, these materials have not been translated and it is not clear exactly what these documents are. Without further clarification, it cannot be concluded that these documents represent a copy of the complete application, as required.

Regarding item (4), the petition includes a declaration executed on behalf of the non-signing inventors by a representative of the 37 CFR 1.47(b) applicant, UTStarcom Korea Limited ("UTStarcom Korea"). Item (4) is therefore satisfied.

Regarding item (5), section 409.03(f) of the MPEP states the following:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that: (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

Petitioner here asserts that it has the required proprietary interest based on a chain of assignments, first from the inventors to Hyundai Syscomm ("Hyundai"), then from Hyundai Syscomm to UTStarcom Korea. With respect to such a claim, the MPEP states the following:

> 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).

The present petition includes copies of the assignments relied upon, and a statement under 37 CFR 3.73(b) has been submitted which properly references these assignments. However, additional evidence is required to confirm that the original assignment from the inventors to Hyundai relates to the subject matter of the present application. The assignment was executed prior to the filing of the priority application herein, and it therefore does not expressly refer to such application. Petitioner must provide a statement from a person with firsthand knowledge confirming that the invention referred to in the assignment from the inventors to Hyundai is the invention disclosed in the present application. In addition, the assignment from Hyundai to UTStarcom Korea refers only to the Korean priority document, not to the international application (which was not yet filed at the time of the assignment). Under such circumstances, a statement is required from a person with firsthand knowledge confirming that the invention disclosed in the international application is the same as that disclosed in the assigned priority application. Until the supplemental materials described above are provided, item (5) is not considered satisfied.

Regarding item (6), the petition includes the required statement that granting of the present petition is necessary to preserve the rights of the 37 CFR 1.47(b) applicant. Item (6) is satisfied.

Based on the above, petitioner has failed to satisfy all the requirements for a grantable petition.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** 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(b)" and must include the materials required to satisfy items (2) and (5) of a grantable petition, as discussed above and in the applicable sections of the MPEP.

Failure to provide a proper and timely 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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31 JUL 2007

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
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CHICAGO, IL 60606

In re Application of	:	
KIM, June Man et al.	:	
Application No.: 10/560,664	:	DECISION ON
PCT No.: PCT/KR04/01851	:	
Int. Filing Date: 23 July 2004	:	RENEWED PETITION
Priority Date: 24 July 2003	:	
Attorney's Docket No.: 05-597-B	:	UNDER 37 CFR 1.47(b)
For: System And Method For Tracking Position Of A Mobile Unit Using Beacons In A Mobile Communication System	:	

This is a decision on applicants' "Renewed Petition Under 37 C.F.R. 1.47(b)," filed on 26 March 2007 on behalf of the assignee and the non-signing inventors June Man Kim and Noh Sang Park.

BACKGROUND

On 23 July 2004, applicants filed international application PCT/KR04/01851, claiming a priority date of 24 July 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 24 January 2006.

On 13 December 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied, *inter alia*, by the requisite basic national fee and the surcharge for late filing of the oath or declaration.

On 17 April 2006, the United States Designated/Elected Office (DO/EO/US) 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 19 October 2006, applicants submitted the declaration, a four-month extension fee, and a petition under 37 CFR 1.47(b) requesting acceptance of the application without the signature of the applicants.

On 24 January 2007, the Office mailed a Decision dismissing the 19 October 2006 petition because (1) applicants' did not provide sufficient evidence that the inventors refuse to execute the application and, (2) the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application.

On 26 March 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), (3), (4) and (6).

With regard to item (2), the petition states that non-signing inventors June Man Kim and Noh Sang Park have refused to execute the application. The petition includes a declaration from Mr. Jiwon Lim, a person with apparent first hand knowledge that non-signing inventors June Man Kim and Noh Sang Park have refused to execute the declaration. Specifically, on 07 February 2007 a complete copy of the application papers (specification, claims and drawings) was sent to non-signing inventors June Man Kim and Noh Sang Park by both e-mail and regular postal service. On 09 February 2007, non-signing inventor Noh Sang Park contacted Mr. Jiwon Lim directly and told him that non-signing inventor June Man Kim and himself refuse to execute the declaration in the instant application (see Exhibit 6). Furthermore, Mr. Jiwon Lim sent confirmation letters to both inventors confirming their refusal to execute the declaration and did not receive any response (see Exhibit 9). Therefore, the evidence is sufficient to show that non-signing inventors June Man Kim and Noh Sang Park have refused to execute the application. Hence, item (2) has been satisfied.

With regard to item (5), the present petition states that the inventors June Man Kim and Noh Sang Park have 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 45/46, filed 19 October 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 inventors June Man Kim and Noh Sang Park. Therefore, a chain of title from inventors June Man Kim and Noh Sang Park 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 19 October 2006.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

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17 JAN 2006

Paul A. Ragusa
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In re Application of :
BARGE, et al. :
Application No.: 10/560,697 :
PCT No.: PCT/GB03/01698 : DECISION ON PETITION
Int. Filing Date: 22 April 2003 :
Priority Date: 19 April 2002 : UNDER 37 CFR 1.137(b)
Atty. Docket No.: 068315.0119 :
For: COMPUTER SYSTEM FOR THE :
MANAGEMENT OF LOANS :

The petition to revive under 37 CFR 1.137(b) filed 12 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors is required.

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0 8 MAY 2007

Jennifer H. Hamilton
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In re Application of :
COTTRELL *et al* :
U.S. Application No.: 10/560,725 :
PCT No.: PCT/US2004/020562 :
Int. Filing Date: 25 June 2004 : **DECISION**
Priority Date: 25 June 2003 :
Attorney Docket No.: IF03001USU :
For: SECURE NETWORK PRIVACY :
SYSTEM :

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 02 March 2007.

BACKGROUND

On 01 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 02 March 2007, applicants filed a response which was accompanied by, *inter alia*, a four-month extension and fee; the subject petition; the surcharge fee; the petition fee; a declaration signed by one of the six named inventors; a declaration of Mariana Paula Noli; and exhibits A - I.

DISCUSSION

Applicants claim that five of the six named inventors refuse to cooperate in the above-identified application and have filed the subject petition in response to the Form PCT/DO/EO/905 mailed 18 January 2007.

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor(s) cannot be located or refuses to cooperate; (3) a statement of the last known address(es) of the nonsigning joint inventor(s); (4) and an oath or declaration executed by the signing joint inventor(s) on their behalf and on behalf of the nonsigning joint inventor(s).

Concerning item (1), the petition fee of $200.00 has been paid.

With regards to item (3), the last known addresses of the missing five co-inventors are provided in the petition.

Concerning item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by one of the six co-inventors on behalf of himself and the nonsigning joint inventor. The residence, address and citizenship of all three inventors are recorded on the declaration. This declaration meets the requirements of section 409.03(a) and is in compliance with 37 CFR 1.497(a) and (b).

Therefore, items (1), (3) and (4) are complete.

Regarding item (2), applicants' submitted a declaration by Ms. Noli who states that on 13 January 2006 a copy of a declaration and assignment were mailed to all inventors with a request to return the signed documents. Subsequently, a copy of the application and formal documents were submitted to the nonsigning inventors on 14 November 2006. Copies of the letters, postal receipts and other documentary evidence were submitted with the petition. Ms. Noli states that no response has yet been received. No other action was taken to obtain the declarations.

This is insufficient.

Petitioners are claiming that the conduct of the five nonsigning inventors constitutes a refusal. Petitioners have shown that a complete copy of the subject application was mailed to the last known addresses of the nonsigning inventors. However, there is no evidence that the 37 CFR 1.47(a) applicants even attempted to contact the nonsigning inventors via telephone or email to determine whether they received the documents and if they intend to cooperate in the subject application. Moreover, no reason has been submitted as to why five of the six named inventors are refusing to cooperate. Such efforts are not extraordinary and are required here. *See* § 409.03(d) MPEP.

For these reasons, item (2) of 37 CFR 1.47(a) is not yet satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

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
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2 1 APR 2008

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In re Application of
COTTRELL *et al*
U.S. Application No.: 10/560,725
PCT No.: PCT/US2004/020562
Int. Filing Date: 25 June 2004
Priority Date: 25 June 2003
Attorney Docket No.: IF03001USU
For: SECURE NETWORK PRIVACY SYSTEM

DECISION

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 02 March 2007.

BACKGROUND

On 08 May 2007, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 02 March 2007, applicants filed a response which was accompanied by, *inter alia*, a petition to revive under 37 CFR 1.137(b) with fee; a renewed petition under 37 CFR 1.47(a); a supplemental declaration of Mariana Paula Noli; and exhibits A - G.

DISCUSSION

Petition to Revive Under 37 CFR 1.137(b)

Applicants' petition to revive under 37 CFR 1.137(b) is hereby **GRANTED** as follows:

A renewed petition under 37 CFR 1.47 was submitted which is as an appropriate reply to the decision mailed 08 May 2007. The petition fee for a small entity has been paid. Applicants make the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required.

Accordingly, all requirements under 37 CFR 1.137(b) are satisfied.

Petition Under 37 CFR 1.47(a)

In the original petition under 37 CFR 1.47(a) filed 02 March 2007, applicants claimed that five of the six named inventors refused to cooperate in the above-identified application. The petition was dismissed because applicants failed to provide evidence showing that the 37 CFR 1.47(a) applicants attempted to contact the nonsigning inventors to determine their intent with regards to the subject application.

In the renewed petition, the 37 CFR 1.47(a) applicants submitted a declaration of two of the five previous nonsigning inventors. Regarding the remaining three nonsigning inventors, applicants claim that they cannot be located after a diligent effort. Section 409.03(d) of the MPEP discusses the requirements needed to show that an inventor cannot be located and states, in the relevant section:

> 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.

Applicants provided a supplemental declaration by Ms. Marianna Noli who details the efforts used to locate the nonsigning inventors. These efforts consisted of contacting their client and receiving possible email addresses and telephone numbers for the three nonsigning inventors. Ms. Noli states that she sent the emails and called the numbers searching for the nonsigning inventors. These efforts proved fruitless as no response was received. No other evidence was presented listing further steps taken to locate the nonsigning inventors.

This is insufficient. The 37 CFR 1.47(a) applicants must also conduct some type of search of the missing inventors using public records such as the internet/telephone records, Lexis etc. to meet the "diligent effort" standard noted in the MPEP. Documentary evidence of such a search should be submitted in any renewed petition.

For the reason noted above, item (2) of 37 CFR 1.47(a) is still not yet 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 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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In re Application of :
COTTRELL *et al* :
U.S. Application No.: 10/560,725 :
PCT No.: PCT/US2004/020562 :
Int. Filing Date: 25 June 2004 : **DECISION**
Priority Date: 25 June 2003 :
Attorney Docket No.: IF03001USU :
For: SECURE NETWORK PRIVACY :
SYSTEM :

This decision is in response to applicants' renewed petition under 37 CFR 1.47(a) filed 21 August 2008.

BACKGROUND

On 21 April 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 21 August 2008, applicants filed a response which was accompanied by, *inter alia*, a two-month extension and fee and three declarations executed by the nonsigning inventors.

DISCUSSION

In the prior petition, applicants claimed that three of the six named inventors, Darya Mazandarany, Gene Nelson and Steven Walsh could not be located to join in the application. As such, a petition under 37 CFR 1.47(a) was submitted.

In the renewed petition, applicants have located the missing inventors and submitted three declarations executed by the nonsigning inventors. The three declarations are in compliance with 37 CFR 1.497(a) and (b).

No further action on the petition under 37 CFR 1.47(a) is required.

CONCLUSION

For the reason discussed above, the petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 25 June 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 21 August 2008.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,737	12/15/2005	Timo Heinrich	Merck-3100	1689

23599 7590 08/18/2009

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
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EXAMINER	
JARRELL, NOBLE E	

ART UNIT	PAPER NUMBER
1624	

NOTIFICATION DATE	DELIVERY MODE
08/18/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@mwzb.com

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AUG 18 2009

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In re Application of:	:	
Heinrich et al.	:	
Serial No.: 10/560,737	:	PETITION DECISION
Filed: December 15, 2005	:	
Attorney Docket No.: **Merck-3100**	:	

This is in response to the petition under 37 CFR § 1.181, filed June 18, 2009, requesting that the new non-final Office action be issued.

BACKGROUND

On August 7, 2008, the examiner issued a final rejection.

In response thereto, an Amendment After Final was presented on December 8, 2008.

On January 5, 2009, an Advisory Action was mailed indicating that the Amendment After Final would be entered but that various rejections of record were not overcome.

On January 6, 2009, a Notice of Appeal was filed, and on March 6, 2009, a Brief on Appeal was filed.

On June 9, 2009, subsequent to the filing of the Brief on Appeal, applicants received an Advisory Action, which indicated that "proposed amendments" will not be entered, as raising new issues, and indicating that a Brief on Appeal must be filed two months from the filing of the Notice of Appeal of January, 2009. The Advisory Action further indicated that the "Reply" of March 6, 2009 fails to place the application in condition for allowance. Also, the Advisory Action indicated that a prior rejection under 35 U.S.C. 102 is now being applied as a rejection under 35 U.S.C. 103.

DISCUSSION

The petition and the file history have been carefully considered.

Applicants' argue that "it is thus respectfully submitted that either the present Advisory Action misunderstands the status of the present case, in which amendments after final *were* entered, and a Brief on Appeal has *already* been filed, or, in the alternative, the Advisory Action attempts to impermissibly add a rejection to the application on appeal, without reopening of prosecution. It is submitted that, if it is desired to make a new rejection, prosecution *must* be reopened at this point, or if the new grounds of rejection meet the standards of MPEP § 1207.03, issued as part of an Examiner's answer giving applicants the opportunity to reopen prosecution."

Accordingly, applicants "petition for either reopening of prosecution and issuance of a non-final Office Action, or issuance of an Examiner's Answer which properly treats the Brief on Appeal on its merits".

Applicants' argument are well taken and found persuasive that the record is unclear.

Accordingly, applicants' petition for reopening of prosecution and issuance of a non-final Office Action is **DENIED**.

However, applicants' petition for issuance of an Examiner's Answer which properly treats the Brief on Appeal on its merits wherein the claims have been amended in accordance with the entry of the amendment after final of January 5, 2009 is **GRANTED.**

DECISION

The petition is **GRANTED-IN-PART**.

This application is being returned to the examiner for consideration of the Appeal Brief of March 6, 2009 and the issuance of an Examiner's Answer.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Remy Yucel
Director, Technology Center 1600

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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30 NOV 2006

24197
KLARQUIST SPARKMAN, LLP
121 SW Salmon Street
Suite 1600
Portland, OR 97204

In re Application of :
IKIADES *et al* :
U.S. Application No.: 10/560,755 :
PCT No.: PCT/GB2003/002600 :
Int. Filing Date: 17 June 2003 : **DECISION**
Priority Date: 13 June 2002 :
Attorney Docket No.: 7429-72784-01 :
For: ICE DETECTION APPARATUS AND METHOD :

This decision is in response to applicants' "Petition Under 37 C.F.R. §1.47(a) for Unavailable Inventor" filed 11 September 2006.

BACKGROUND

On 30 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) & (b) was required. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 11 September 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 four-month extension and fee; the petition fee; a declaration executed by three of the four named inventors; and a statement in support of filing on behalf of an unavailable inventor ("Decl.").

On 03 November 2006, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) and filing receipt indicating completion of all 35 U.S.C. 371 requirements.

DISCUSSION

The Form PCT/DO/EO/903 and filing receipt mailed 03 November 2006 were mailed in error and are hereby **VACATED**. All requirements of 35 U.S.C. 371 have not yet been completed.

Petitioner claims that one of the joint inventors, George Graham Hare, could not be located and submitted a declaration signed on his behalf by the other three joint inventors along with 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 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 petition fee has been paid.

With regards to item (3), the last known address of George Graham Hare is listed as:

5 Mayfield Close
Shipton Bellinger, Tidworth
Hampshire SP9 7YG
England

Concerning item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by three of the 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), 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.

Applicant submitted a statement of facts by Simon J. Robinson, an attorney representing the assignee. Mr. Robinson states that a co-inventor, Mr. Armstrong, indicated that Mr. Hare left the employ of Aerospace and moved to New Zealand and did not provide a forwarding address. Decl. at ¶ 3. Mr. Robinson states that he conducted several internet searches and telephoned the New Zealand White Pages to find Mr. Hare's current address, but was unsuccessful. Id. at ¶ 4-5. No other evidence was provided.

This evidence alone is insufficient to show that a "diligent effort" was made to locate the nonsigning inventor. A statement of facts by Mr. Armstrong who has first-hand knowledge of Mr. Hare's situation is required. Moreover, petitioners must submit documentary evidence of the internet searches and telephone calls used to claim that a diligent effort was made to locate the nonsigning inventor.

For these 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 Legal Administration.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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30 APR 2007

24197
KLARQUIST SPARKMAN, LLP
121 SW Salmon Street
Suite 1600
Portland, OR 97204

In re Application of
IKIADES *et al*
U.S. Application No.: 10/560,755
PCT No.: PCT/GB2003/002600
Int. Filing Date: 17 June 2003
Priority Date: 13 June 2002
Attorney Docket No.: 7429-72784-01
For: ICE DETECTION APPARATUS AND METHOD

DECISION

This decision is in response to applicants' "Renewed Petition Under 37 C.F.R. §1.47(a) for Unavailable Inventor" filed 02 February 2007.

BACKGROUND

On 30 November 2006, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed because applicants failed to satisfy item (2) of 37 CFR 1.47(a). Applicants were given two months to respond.

On 02 February 2007, applicants filed the instant renewed petition which was accompanied by, *inter alia*, a declaration of co-inventor, David Armstrong; a declaration of Sylvie J. Cook; a declaration of Arle Pellikaan; and copies of internet searches

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor cannot be located; (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 non-signing joint inventor.

Items (1), (3) and (4) of 37 CFR 1.47(a) were completed in the original petition.

Regarding item (2), the 37 CFR 1.47(a) applicants failed to show that a diligent effort was made to locate the nonsigning inventor in the initial petition. Specifically, a statement of facts by a person having first-hand knowledge of the nonsigning inventor's location was required. Moreover, documentary evidence of the internet searches and telephone calls made to locate the nonsigning inventor was also needed.

In the renewed petition, the 37 CFR 1.47(a) applicants submitted statements and documentary evidence requested by the prior decision. A review of this evidence shows that Mr. Hare has moved to New Zealand. The 37 CFR 1.47(a) applicants have also shown that a diligent effort was made to locate the nonsigning joint inventor but to no avail. As such, item (2) of 37 CFR 1.47(a) is satisfied.

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 June 2003 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 11 September 2006.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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14 MAR 2007

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

In re Application of MEYER et al :
U.S. Application No.: 10/560,758 :
PCT Application No.: PCT/EP2004/006897 :
Int. Filing Date: 24 June 2004 : DECISION
Priority Date Claimed: 02 July 2003 :
Attorney Docket No.: 30882/41723 :
For: METHOD FOR PRODUCING A FIRE PROTECTION GLAZING :

This is in response to applicant's "Response to Notification of Missing Requirements and Petition Under 37 C.F.R. § 1.47(a)" filed 06 November 2006 and "Response to Notification of Missing Requirements and Supplement to Petition Under 37 C.F.R. § 1.47(a)" filed 15 November 2006.

On 24 June 2004, applicant filed international application PCT/EP2004/006897, which claimed priority of an earlier European Patent Office application filed 02 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 13 January 2005. The thirty-month period for paying the basic national fee in the United States expired on 02 January 2006.

On 14 December 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 05 April 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 06 November 2006, applicant filed a petition under 37 CFR 1.47(a) along with an executed declaration.

On 15 November 2006, applicant filed a supplemental petition under 37 CFR 1.47(a) along with an executed declaration.

In view of the declaration executed by the previously nonsigning inventor, the petition under 37 CFR 1.47(a) is DISMISSED AS MOOT.

The application has an International Filing Date under 35 U.S.C. 363 of 24 June 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 15 November 2006.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

MAILED

JUN 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Tomas Kreutz	:	
Application No. 10/560,759	:	DECISION ON PETITION
Filed: April 24, 2006	:	
Attorney Docket No. 15258-000031/US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 27, 2010, 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 Notice of Non-Compliant Amendment mailed July 14, 2008, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 15, 2008. A Notice of Abandonment was mailed March 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $810.00 and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

The address given on the petition differs from the new 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 the undersigned at (571) 272-7751.

The application file is being referred to Technology Center AU 2831 for appropriate action on the concurrently filed amendment.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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NASHUA NH 03061-0868

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FEB 25 2010

OFFICE OF PETITIONS

In re Application of :
Eugene S. Rubin :
Application No. 10/560,767 : DECISION ON PETITION
Filed: December 13, 2005 :
Attorney Docket No. **20030073** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 3, 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, February 12, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

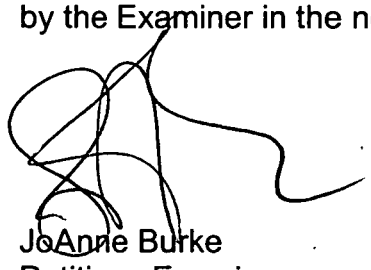
37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3644 for appropriate action by the Examiner in the normal course of business on the reply received.



JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Melissa L.B. Lyons, Esq.
BOURQUE & ASSOCIATES, P.A.
835 Hanover Street
Suite 301
Manchester, NH 03104

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,770	06/07/2006	Itaru Tanimura	352738.00800	5158

7590 04/16/2008

Doyle B Johnson
Reed Smith Crosby Heafey
2 Embarcadero Ctr
Ste 2000
San Francisco, CA 94120-3922

EXAMINER	
UBER, NATHAN C	

ART UNIT	PAPER NUMBER
4143	

MAIL DATE	DELIVERY MODE
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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FROM DIRECTORS OFFICE

APR 16 2008

TECHNOLOGY CENTER 3600

Doyle B Johnson
Reed Smith Crosby Heafey
2 Embarcadero Ctr, Ste 2000
San Francisco CA 94120-3922

In re Application of:	:	DECISION ON REQUEST TO
Itaru Tanimura et al.	:	PARTICIPATE IN PATENT
Application No.: 10/560,770	:	PROSECUTION HIGHWAY PILOT
Filed: June 7, 2006	:	PROGRAM AND PETITION TO
Attorney Docket No.:352738.00800	:	MAKE SPECIAL UNDER 37 CFR
For: Marketing Support Device and	:	1.102(d)
Marketing Support Method	:	

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 20, 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 program complies 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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POLYONE CORPORATION
33587 WALKER ROAD
AVON LAKE, OH 44012

Mail Date: 04/21/2010

Applicant	: Ewen A. Campbell	: DECISION ON REQUEST FOR
Patent Number	: 7232856	: RECALCULATION of PATENT
Issue Date	: 06/19/2007	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/560,803	: OF WYETH
Filed	: 12/15/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Seiichi Saito	: DECISION ON REQUEST FOR
Patent Number	: 7595357	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/560,815	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **380** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,822	04/05/2006	Gerard Olivier	281470US2XPCT	8916

22850 7590 02/22/2010

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
KWON, ASHLEY M	

ART UNIT	PAPER NUMBER
1795	

NOTIFICATION DATE	DELIVERY MODE
02/22/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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FEB 2 2 2010

Mailed :
In re Application of
Oliver et. al.
Serial No. 10/560,822
Filed: April 5, 2006
For: Co-Generation Of Electricity By The
Seebeck Effect Within A Fuel Cell

DECISION ON
PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 for improperly withdrawing claims from consideration.

Original claims 10-16 recited a fuel cell stack and claims 17-18 recited a method of partial recuperation. The Examiner issued a non-final Office Action on February 19, 2009 encompassing claims 10-18. Applicants responded on June 15, 2009 and added new claims 19-26 which recited a fuel cell stack. The Examiner withdrew claims 19-26 in the Office Action of September 26, 2009 because they recited additional details of the invention that were not recited in claims 10-16.

It is noted that the present application is the national stage of a PCT application and that any restriction requirement is governed by the unity of invention rules under 37 CFR 1.475.

DECISION

The petition is **GRANTED**.

The Examiner failed to establish that a lack of unity exists to the new claims and is directed to consider the withdrawn claims.

/Jacqueline M. Stone/

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Philippe J.C. Signore, Ph.D.
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

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

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

Mail Date: 04/20/2010

Applicant	: Makoto Muto	: DECISION ON REQUEST FOR
Patent Number	: 7626029	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/560,823	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **978** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
P.O. Box 1450
Alexandria, VA 22313-1450
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MERIT MEDICAL SYSTEMS INC
C/O STOEL RIVES LLP
ONE UTAH CENTER
201 SOUTH MAIN STREET -- SUITE 1100
SALT LAKE CITY UT 84111

MAILED

JUL 17 2009

OFFICE OF PETITIONS

In re Application of :
Andersen, et al. :
Application No. 10/560,827 : ON PETITION
Filed: May 19, 2006 :
Attorney Docket No. 37621/390.1 :

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 final Office action, mailed September 17, 2008. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on December 18, 2008. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of an RCE.

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 $1110.00 extension of time fee submitted with the petition on May 14, 2009

was subsequent to the maximum period obtainable for reply (March 17, 2009), this fee has been refunded to petitioner's Deposit Account 50-2375.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application is being forwarded to Group Art Unit 3767 for consideration of the RCE, filed May 14, 2009.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,441,501 B2
Serial No. : 10/560,833
Inventor(s) : Masuch
Issued : October 28, 2008
Title : **PRINTING UNITS COMPRISING BEARING RINGS IN A ROTARY PRESS**
Docket No. : **W1.2073 PCT-US**
Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request.

Furthermore, Assignees' and/ or Co-assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, which requires petition under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300 ATTN: Office of Petitions

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), which has been received.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

Douglas R Hanscom
Jones Tullar & Cooper
Eads Station
PO Box 2266
Arlington VA 22202

ecw

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DOUGLAS R HANSCOM
JONES TULLAR & COOPER
EADS STATION
PO BOX 2266
ARLINGTON, VA 22202

COPY MAILED

MAR 1 1 2009

OFFICE OF PETITIONS

In re Patent No. 7,441,501	:	
Issue Date: October 28, 2008	:	
Application No. 10/560,833	:	ON PETITION
Filed: December 15, 2005	:	
Attorney Docket No. W1.2073 PCT-US	:	

This is a decision on the petition filed January 5, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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12 JAN 2007

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of:
HVOLRIS, Jesper, et al.
U.S. Application No.: 10/560,844
PCT No.: PCT/DK2004/000412
International Filing Date: 14 June 2004
Priority Date: 17 June 2003
Attorney's Docket No.: PLOUG6.001APC
For: DEVICE FOR PREVENTING DISLOCATION OF HIP ARTHROPLASTY IMPLANTS

DECISION REGARDING SUBMISSION UNDER 37 CFR 1.42

This communication is issued in response to applicants' submission on 12 December 2006 of a declaration executed on behalf of deceased inventor John Bogh HANSEN by the deceased inventor's heirs. The submission has been treated as a submission under 37 CFR 1.42.

BACKGROUND

On 14 June 2004, applicants filed international application PCT/DK2004/000412. The international application claimed a priority date of 17 June 2003, and it designated the United States. On 23 December 2004, International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 17 December 2005.

On 15 December 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 10 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 12 December 2006, applicants filed a response to the Notification Of Missing Requirements (with required three-month extension fee). The response included payment of the required surcharge and a declaration executed by the surviving inventor and on behalf of the deceased inventor by five persons identified as "child and heir" of the deceased inventor.

DISCUSSION

37 CFR 1.42 states in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Section 409.01(a) of the MPEP states that the application can also be executed by all of the heirs of the deceased inventor, where no legal representative has been appointed or is required to be appointed by law.

37 CFR 1.497(b)(2) states:

> If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to 37 CFR 1.497(b)(2), the citizenship for **both** the deceased inventor and the legal representative (or heirs) must be identified on the declaration (as well as the mailing address and residence information of the legal representative and all other information required under 37 CFR 1.497).

Here, the declaration filed 12 December 2006 includes the required citizenship, residence, and mailing address information for the persons signing the declaration on behalf of the deceased inventor. However, the declaration does not set forth the citizenship of the deceased inventor. In addition, neither the declaration nor any materials submitted therewith state that the five heirs listed on the declaration are the only heirs of the deceased inventor. Applicants must provide a revised declaration executed by the legal representative of the deceased inventor (or all his heirs) that includes all required information, including the citizenship of the deceased inventor. Such declaration must also make clear on its face, or be accompanied by a statement and/or supporting documentation confirming, that the persons executing the declaration on behalf of the deceased inventor are the only heirs of the deceased inventor.

CONCLUSION

The declaration filed 12 December 2006 under 37 CFR 1.42 is **REJECTED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mail date this communication to submit a proper response under 37 CFR 1.42 and 1.497. Failure to file a proper and timely response will result in abandonment.

Extensions of time are available under 37 CFR 1.136(a).

A proper response must include a revised declaration executed by the legal representative of the deceased inventor (or all the heirs) that includes all the information required by 37 CFR 1.497 (including the citizenship of the deceased inventor), as well as a statement and/or supporting documentation confirming that the persons executing the declaration on behalf of the deceased inventor are the only heirs of the deceased inventor.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

15 MAY 2007
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

In re Application of	:	
HVOLRIS, Jesper et al.	:	
Application No.: 10/560,844	:	DECISION
PCT No.: PCT/DK04/00412	:	
Int. Filing Date: 14 June 2004	:	ON SUBMISSION UNDER
Priority Date: 17 June 2003	:	
Attorney's Docket No.: PLOUG6.001APC	:	37 CFR 1.42
For: Device For Preventing Dislocation of Hip Arthroplasty Implant	:	

This communication is issued in response to applicants' "Response To Decision Regarding Submission Under 37 CFR 1.42" submitted on 27 February 2007. Applicants have submitted a declaration executed on behalf of deceased co-inventor John Bogh Hansen by his heirs (legal representatives). The submission has been treated as a submission under 37 CFR 1.42.

BACKGROUND

On 14 June 2004, applicant filed international application PCT/DK04/00412, claiming a priority date of 17 June 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 December 2005.

On 15 December 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 10 July 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 13 July 2006, applicants filed a response to the Notification of Missing Requirements including, an executed declaration of the inventors, surcharge for late filing of the oath or declaration and a three-month extension fee. The declaration was executed by co-inventor, Jesper Hvolris and, Mai Fredslund, Kim Fredslund, Pia Fredslund, Per Fredslund and Anne Fredslund as heirs (legal representatives) for deceased co-inventor John Bogh Hansen.

On 12 January 2007 the Office mailed Decision regarding Submission Under 37 CFR 1.42 rejecting applicants' submission without prejudice. Because the declaration did not include the (1) citizenship of the deceased co-inventor and, (2) a statement that the five heirs listed on the declaration are the only heirs, the Decision concluded that the declaration filed 13 July 2006 did not comply with 37 CFR 1.497(a)-(b).

On 27 February 2007, applicants filed the instant "Response To Decision Regarding Submission Under 37 CFR 1.42" including a supplemental declaration.

DISCUSSION

When an inventor has deceased, 37 CFR 1.42 permits the legal representative (executor, administrator, etc.) of the deceased inventor to execute the necessary oath or declaration and, apply for and obtain a patent.

With respect to the legal representative, MPEP 409.01(a) states that where no legal representative has been appointed or is required to be appointed by law, the application for a patent may also be made by all of the heirs of the deceased. Further, MPEP 409.01(a) states that the heirs need to identify themselves as legal representative of the deceased inventor.

37 CFR 1.497(b)(2) states:

> If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that (1) the person is a legal representative and the (2) citizenship, (3) residence and (4) mailing address of the legal representative.

A review of the declaration filed 27 February 2007 shows that Mai Fredslund, Kim Fredslund, Pia Fredslund, Per Fredslund and Anne Fredslund have executed the declaration as the only heirs (legal representatives) for deceased co-inventor John Bogh Hansen and have provided the statement required under item (1).

With regard to items (2)-(4), the residence, mailing address and citizenship of the persons signing on behalf of deceased co-inventor John Bogh Hansen have been provided. Also provided is the citizenship of deceased co-inventor John Bogh Hansen.

The declaration filed 27 February 2007 is deemed acceptable under 37 CFR 1.497 (a)-(b).

CONCLUSION

The declaration filed 27 February 2007 under 37 CFR 1.42 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3297
Facsimile: (571) 273-0459

Stefan Staicovici
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-1208

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ASLTON & BIRD, LLP
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101 SOUTH TRYON STREET
SUITE 4000
CHARLOTTE, NC 28280-4000

COPY MAILED
DEC 04 2008

Applicant: Wislon
Appl. No.: 10/560,853
International Filing Date: June 7, 2004
Title: A1 ADENONISE RECEPTOR ANTAGONISTS
Attorney Docket No.: 049542/303320
Pub. No.: 2007/0274910 A1
Pub. Date: November 29, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on January 2, 2008, for the above-identified application. Applicant requests that the application be republished because the patent application publication contains material errors, wherein a section of claim 22 was not printed.

The request is **granted.**

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

It would greatly benefit the Office if the request for corrected publication pointed out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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25 JAN 2006

Robert Ryan Morishita
Anderson & Morishita, LLC
2725 S. Jones Blvd., Suite 102
Las Vegas, NV 89146

In re Application of	:	
Scanlan	:	
Application No.: 10/560,876	:	DECISION
PCT No.: PCT/AU02/00249	:	
Int. Filing Date: 05 March 2002	:	ON
Priority Date: 06 March 2001	:	
Attorney Docket No.: WORLDLINGO 05-02	:	PETITION
For: Seamless Translation System	:	

This is in response to the petition to revive under 37 CFR 1.137(b) filed on 12 December 2005.

BACKGROUND

This international application was filed on 05 March 2002, claimed an earlier priority date of 06 March 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 12 September 2002. The 30 month time period for paying the basic national fee in the United States expired at midnight on 06 September 2003. This international application became abandoned with respect to the national stage in the United States under 35 U.S.C. 371(d) for failure to timely pay the basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the "required reply" in the form of the small entity basic national fee accompanied the petition.

Regarding requirement (2), the small entity petition fee has been paid.

Regarding requirement (3), 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 satisfies requirement (3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

The declaration of the inventor accompanying the petition is defective because it does not clearly identify the application to which it is directed. The only indication of the case to which it is directed is a reference to attorney docket no. "WORLDLINGO03-02," which differs from the docket number recorded on the other papers in this case. The declaration neither specifies that it is directed toward the accompanying application, nor does it refer to the instant international application.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b).

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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12 JAN 2005

Andrea E. Dorigo
Pfizer, Inc.
Patent Department
150 East 42nd Street - 5th Floor
New York, NY 10017-5755

In re Application of
AHMAD, et al.
U.S. Application No.: 10/560,877
PCT No.: PCT/EP03/02628
Int. Filing Date: 10 March 2003
Priority Date: 15 March 2002
Attorney Docket No.: PC27386A
For: PROCESS FOR PREPARING CRYSTALLINE FORM OF I CABERGOLINE

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 13 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. It is noted that the filed declaration fails to comply with 37 CFR 1.497(a)(3) in that it does not identify the inventor's country of citizenship. In addition, the data required under 37 CFR 1.497(c) is missing from the filed application data sheet.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a compliant, executed oath or declaration of the inventor is required.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Frank Reiners	: DECISION ON REQUEST FOR
Patent Number	: 7604691	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/560,881	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **853** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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E I du Pont de Nemours & Company
Legal Patents
Wilmington, DE 19898

Mail Date: 04/21/2010

Applicant	: Mark F. Teasley	: DECISION ON REQUEST FOR
Patent Number	: 7659026	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/560,882	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **972** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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E I du Pont de Nemours & Company
Legal Patents
Wilmington, DE 19898

Mail Date: 05/18/2010

Applicant : Mark F. Teasley
Patent Number : 7659026
Issue Date : 02/09/2010
Application No: 10/560,882
Filed : 12/13/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1084** 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).

01 FEB 2007

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of
BOIERO et al.
Application No.: 10/560,893
PCT No.: PCT/EP03/06382
Int. Filing Date: 17 June 2003
Priority Date: None
Attorney Docket No.: 09952.0014
For: A METHOD FOR THE LOCATION OF MOBILE TERMINALS

DECISION ON SUBMISSION UNDER 37 CFR 1.497

This is a decision on applicant's submission of declaration under PCT Rule 4.17, filed in the United States Patent and Trademark Office (USPTO) on 09 May 2006 in the above referenced application.

On 16 December 2005, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Submission under 35 U.S.C. 371 requesting entry into the national stage of PCT/EP03/06382, accompanied a declaration executed under PCT Rule 4.17.

Upon review, the declaration does not identify the application to which it is directed and is not in compliance with 37 CFR 1.497(a) and (b). Further, the declaration does not identify the same first named inventor as listed on the published international application. The international application identifies *Gianluca* Boiero as the first named inventor. The executed declaration lists the first named inventor as *Luca* Boiero. Thus the declaration was not executed in accordance with either 37 CFR 1.66 or 1.68. A new declaration, in compliance with 37 CFR 1.497(a) and (b), is required.. See MPEP 1893.01(e).

Thus, the declaration submitted on 16 December 2005 is unacceptable and does not meet the requirements of 37 CFR 1.497(a) and (b).

The application will be forwarded to the DO/EO/US for further processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286

06 FEB 2007

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06 FEB 2007

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Cantor Colburn LLP
55 Griffin Road South
Bloomfield, CT 06002

In re Application of
JEONG et al.
U.S. Application No. 10/560,920
PCT No.: PCT/KR03/01813
Int. Filing Date: 04 September 2003
Priority Date: 23 June 2003
Attorney Docket No.: GUA-0014
For: MEMORY CIRCUIT FOR DISPLAY PANEL DRIVING AND DRIVING METHOD THEREOF

DECISION ON REQUEST

This decision is issued in response to applicants' "Request to Correct Inventorship Pursuant to 37 CFR 1.48(a)" filed 14 December 2005, which is being treated as a Request under 37 CFR 1.497(d). The $130 petition fee has been charged to counsel's deposit account.

BACKGROUND

On 04 September 2003, applicants filed international application no. PCT/KR03/01813 which claimed a priority date of 23 June 2003. The international application named Seong-Ik Jeong as an applicant/inventor. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 23 December 2005.

On 14 December 2005, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; a copy of the international application; an assignment; a declaration executed by Seong-Ik Jeong; a preliminary amendment; and a "Request to Correct Inventorship Pursuant to 37 CFR 1.48(a)."

DISCUSSION

As defined in 37 CFR 1.9(a)(3), a U.S. national stage application must first comply with the requirements of 35 U.S.C. 371(c) to constitute a "nonprovisional" application, therefore, applicants' request will be treated under 37 CFR 1.497(d). The present submission seeks to correct the inventorship so as to add inventor Jae Woon Kim 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.

Items (1), (2), and (3) have been satisfied.

As to item (4), an oath or declaration by the actual inventors (Seong-Ik Jeong and Jae Woo Kim) as required by 37 CFR 1.497(a) has not been submitted.

Because applicants have not satisfied all the requirements of 37 CFR 1.497(d), inventor Jae Woo Kim cannot be added to the application on the present record.

CONCLUSION

Applicants' request to add inventor Jae Woo Kim under 37 CFR 1.497(d) is **DISMISSED** without prejudice. The inventors of record remain the inventors named on the international application.

Applicants must file a proper response to this decision within **TWO (2) MONTHS** from the mail date indicated above. A proper response must include a declaration in compliance with 37 CFR 1.497(a)-(b). Failure to file a timely and proper response will result in abandonment of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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01 JUN 2007

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Cantor Colburn LLP
55 Griffin Road South
Bloomfield, CT 06002

In re Application of :
JEONG et al. :
U.S. Application No. 10/560,920 :
PCT No.: PCT/KR03/01813 : DECISION ON REQUEST
Int. Filing Date: 04 September 2003 :
Priority Date: 23 June 2003 :
Attorney Docket No.: GUA-0014 :
For: MEMORY CIRCUIT FOR DISPLAY PANEL DRIVING AND DRIVING METHOD THEREOF

This decision is issued in response to applicants' "Response to Decision on Request to Correct Inventorship Pursuant to 37 CFR 1.48(a)" filed 10 April 2007, which is being treated as a Request under 37 CFR 1.497(d).

BACKGROUND

On 04 September 2003, applicants filed international application no. PCT/KR03/01813 which claimed a priority date of 23 June 2003. The international application named Seong-Ik Jeong as an applicant/inventor. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 23 December 2005.

On 14 December 2005, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia*: the requisite basic national fee; a copy of the international application; an assignment; a declaration executed by Seong-Ik Jeong; a preliminary amendment; and a "Request to Correct Inventorship Pursuant to 37 CFR 1.48(a)." In a Decision on Request dated 06 February 2007, applicants' request under 37 CFR 1.497(d) was dismissed without prejudice.

On 10 April 2007, applicants filed "Response to Decision on Request to Correct Inventorship Pursuant to 37 CFR 1.48(a)."

DISCUSSION

As defined in 37 CFR 1.9(a)(3), a U.S. national stage application must first comply with the requirements of 35 U.S.C. 371(c) to constitute a "nonprovisional" application, therefore, applicants' request will be treated under 37 CFR 1.497(d). The present submission seeks to correct the inventorship so as to add inventor Jae Woon Kim to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17; and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).
> >
> > (4) any new oath or declaration required by paragraph (f) of this subsection.

Applicants have satisfied items (1); (2); (3) and (4).

CONCLUSION

The renewed request under 37 CFR 1.497(d) is **GRANTED**.

A review of the application papers reveals that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage.

This application will be given an international application filing date of 04 September 2003 and a date of 10 April 2007 under 35 U.S.C. 371.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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OFFICE OF PETITIONS

HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON DC 20004

In re Application of :
Giuseppe ZATTERA :
Application No. 10/560,933 : DECISION ON PETITION
Filed: December 15, 2005 :
Attorney Docket No. 82062-0187 :

This is a decision on the petition, under 37 CFR 1.137(b) filed on October 1, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Final Office Action mailed March 11, 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 above-identified application became abandoned on June 12, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Notice of Appeal and the required fee and; (2) the petition fee of $1,620; and (3) the required statement of unintentional delay have been received. Accordingly, the Notice of Appeal fee payment is accepted as having been unintentionally delayed.

The two-month period for filling an appeal brief under 37 CFR 41.37(a)(1), accompanied by the fee required by 37 CFR 41.20(b)(2), runs from the date of this decision.

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 630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on October 1, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Application No. 10/560,933

Telephone inquiries concerning this decision should be directed to Tammara Peyton at (571) 272-6052 or in his absence to the undersigned at (571) 272-3217.

The application file is being referred to the TC Art Unit 3767 for further processing.

David Bucei
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,322,779 B2
Serial No. : 10/560,944
Inventor(s) : Kress et al.
Issued : January 29, 2008
Title : **INTERFACE BETWEEN TWO PARTS OF A TOOL SYSTEM**
Docket No. : **2693-000017/US/NP**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request to add Assignee.

Furthermore, Assignees' and/ or Co-assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, which requires petition under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), which has been received.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

ecw

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OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Patent No. 7,322,779 :
Issue Date: January 29, 2008 :
Application No. 10/560,944 : DECISION ON PETITION
Filed: December 15, 2005 :
Attorney Docket No. 2693-000017/US/NP :

This is a decision on the Petition under 37 CFR 3.81(b) and/or 37 CFR 1.183, filed August 21, 2009, requesting correction on the Title Page of the subject patent, via issuance of a Certificate of Correction under 37 CFR 1.323, to identify the correct name of assignee. A completed Certificate of Correction Form (PTO/SB/44) was previously submitted on July 23, 2008.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction, to correct the name of the assignee identified thereon from "MAPAL Fabrik Fur Prazisionswerkzeuge" to:

--MAPAL Fabrik Fur Prazisionswerkzeuge Dr. Kress KG--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464) as set forth under 37 CFR 1.17(i) were submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 that was previously submitted.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,322,779.

Brian W. Brown
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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OFFICE OF PETITIONS

Applicant: Niwa et al.
Appl. No.: 10/560,951
Filing Date: June 17, 2004
Title: POLYAMIDE-BASED MULTILAYER FILM
Attorney Docket No.: SAEG124.004APC
Pub. No.: US 2007/0042206-A1
Pub. Date: February 22, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on March 29, 2007, for the above-identified application.

The request is DISMISSED.

Applicants request that the application be republished because Takehiko Toyonaga was not listed as an 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. [1]

The instant request does not identify a material mistake in the publication made by the Office under 37 CFR 1.221(b) with respect to the omitted inventor information. The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, determine the scope of the patent application publication, or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

Applicants are advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

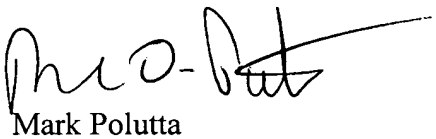
§ 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a) must be submitted via the EFS system as a "Pre-Grant Publication" and any questions or request for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

MAILED

JUN 04 2010

OFFICE OF PETITIONS

In re Application of :
Michael Josephus Van Eijk :
Application No. 10/560,968 : NOTICE
Filed: March 19, 2007 :
Attorney Docket No. VAN EIJK17

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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APR 14 2010

OFFICE OF PETITIONS

OBLON, SPIVAK, MCCLELLAND
MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of	:	
Soto-Jara	:	DECISION ON PETITION
Patent Number: 7,598,046	:	UNDER #& C.F.R. 1.705(d) AND
Issue Date: 10/06/2009	:	REQUEST FOR RECONSIDERATION
Application No. 10/560978	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 06/27/2006	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
281278US0PCT	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 24, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred twenty-five (525) 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 twenty-five (525) 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 twenty-five (525) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,598,046 B2

DATED : **October 6, 2009**

INVENTOR(S) : Soto-Jara 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 234 days.

Delete the phrase "by 234 days" and insert – by 525 days--

12 MAR 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Huntsman Advanced Materials Americas, Inc.
Legal Department
10003 Woodloch Forest Drive
The Woodlands, Texas 77380

In re Application of	:	
MALHERBE et al.	:	
U.S. Application No. 10/560,982	:	DECISION ON
PCT No.: PCT/EP04/51275	:	PETITION
Int. Filing Date: 28 June 2004	:	UNDER
Priority Date: 30 June 2003	:	37 CFR 1.181
Attorney Docket No.: HAM 842079	:	
For: PROCESS	:	

This decision is issued in response to applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" filed 19 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 29 November 2007. No petition fee is required.

BACKGROUND

On 28 June 2004, applicants filed international application no. PCT/EP04/51275 which claimed a priority date of 30 June 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 13 January 2005. 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 December 2005.

On 15 December 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; first preliminary amendment; and an application data sheet.

On 23 January 2007, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 29 November 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that

the application was abandoned for failure to file a response to the Notification of Missing Requirements mailed 23 January 2007 within the time period set therein.

On 19 February 2008, applicants filed the present petition. Applicants state in the present petition that the response to the Notification of Missing Requirements was previously submitted on 02 March 2007, therefore, petitioner statements will be treated as a petition to withdraw holding of abandonment under 37 CFR 1.181.

DISCUSSION

Applicants state in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 06 March 2007. 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, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by application serial number and attorney docket number. The receipt itemizes, inter alia, an Executed Declaration. The receipt is stamped "PCT/PTO 06 March 2007" across its face. However, a review of the application file reveals that the declaration filed on 06 March 2007 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 29 November 2007 without a true copy of the declaration filed on 06 March 2007.

CONCLUSION

For the reasons discussed above, applicants' petition is **DISMISSED** without prejudice.

Applicants are hereby given a **TWO (2) MONTH** time period from the mail date of this Decision on Petition under 37 CFR 1.181 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 06 March 2007 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.

Authorized by

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

31 MAR 2008

Huntsman Advanced Materials Americas, Inc.
Legal Department
10003 Woodloch Forest Drive
The Woodlands, Texas 77380

In re Application of	:	
MALHERBE et al.	:	
U.S. Application No. 10/560,982	:	RENEWED DECISION
PCT No.: PCT/EP04/51275	:	ON
Int. Filing Date: 28 June 2004	:	PETITION UNDER
Priority Date: 30 June 2003	:	37 CFR 1.181
Attorney Docket No.: HAM 842079	:	
For: PROCESS	:	

This decision is issued in response to applicants' "Statement Verifying Inventors Declaration" filed 21 March 2008, which is being treated as a renewed petition under 37 CFR 1.181 requesting withdrawal of the Notification of Abandonment mailed by the Office on 29 November 2007. No petition fee is required.

BACKGROUND

On 28 June 2004, applicants filed international application no. PCT/EP04/51275 which claimed a priority date of 30 June 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 13 January 2005. 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 December 2005.

On 15 December 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; first preliminary amendment; and an application data sheet.

On 23 January 2007, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 29 November 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a response to the Notification of Missing Requirements mailed 23 January 2007 within the time period set therein.

On 19 February 2008, applicants filed a petition under 37 CFR 1.181. In a decision

dated 21 March 2008, applicants' petition was dismissed without prejudice.

On 21 March 2008, applicants filed a petition under 37 CFR 1.181. Applicants state in the present petition that the response to the Notification of Missing Requirements was previously submitted on 02 March 2007, therefore, petitioner statements will be treated as a petition to withdraw holding of abandonment under 37 CFR 1.181.

DISCUSSION

Applicants state in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 06 March 2007. 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, applicants have provided 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 06 March 2007" across its face is sufficient to indicate that the above item was in fact received in the Office on 06 March 2007.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

In view of the declaration filed 06 March 2007, the Notification of Abandonment (Form PCT/DO/EO/909) dated 02 November 2007 is hereby **VACATED**.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Mail Date: 04/20/2010

Applicant	: Christian Eric Sechelmann	: DECISION ON REQUEST FOR
Patent Number	: 7585374	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/561,003	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **886** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Mail Date: 04/20/2010

Applicant	: Kai Paintner	: DECISION ON REQUEST FOR
Patent Number	: 7604014	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/561,007	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **829** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

Applicant: Pan, et al.
Appl. No.: 10/561,014
International Filing Date: June 2, 2004
Title: ISOFORMS OF BRAIN NATRIURETIC PEPTIDE
Attorney Docket: 07039-409US1
Pub. No.: US 2007/0281887 A1
Pub. Date: December 6, 2007

This is a decision on the petition under 37 CFR 1.182 received on January 5, 2009, for the above-identified application because the front page of the application publication published without the name of one of the inventors, which is being treated as a request for a corrected patent application publication under 37 CFR 1.221(b),

The petition under 37 CFR 1.182 is DISMISSED.

The request for corrected publication is DISMISSED.

Applicant essentially requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein one of the inventors "Robert D. Simari" was not included on the front page.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed **within two months** from the date of the patent application publication. **This period is not extendable**." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The petition under 37 CFR 1.182 is being treated as a request under 1.221(b), since there is a rule on point.

[1]Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The request for corrected publication, received on January 5, 2009, was not timely filed under 37 CFR 1.221(b).

Moreover, while the omission of an inventor's name on the front page of the publication may be an Office error, it is a not material Office error under 37 CFR 1.221. The omission does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication may be found on the link below:

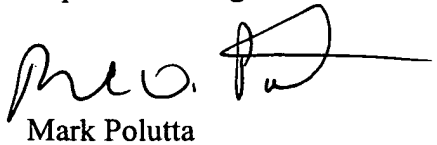
http://www.uspto.gov/ebc/portal/tutorials.htm

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). The Petition fee $400 for the petition under 37 CFR 1.182 is not required for this request under 37 CFR 1.221 and the fee has been refunded to petitioner's Deposit Account (06-1050).

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Shuchong Pan et al.	Art Unit	: 1649
Serial No.	: 10/561,014	Examiner	: Chang Yu Wang
Filed	: June 6, 2006	Conf. No.	: 9426
Title	: ISOFORMS OF BRAIN NATRIURETIC PEPTIDE		

Mail Stop Petitions Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 C.F.R. § 1.182

Inventors Shuchong Pan and Robert D. Simari were listed on the Declaration by Inventors and the Filing Receipt (copies attached). Applicants note, however, that when the above-referenced application published on December 6, 2007, inventor Robert D. Simari was not listed as an inventor on the face of the published application.

Please apply the required fee of $400 and any other charges or credits to deposit account no. 06-1050.

Respectfully submitted,

Date:/January 5, 2009/

/Elizabeth N. Kaytor/
Elizabeth N. Kaytor, Ph.D.
Reg. No. 53,103

Fish & Richardson P.C.
60 South Sixth Street
Suite 3300
Minneapolis, MN 55402
Telephone: (612) 335-5070
Facsimile: (612) 288-9696

60534519.doc

Adjustment date: 05/21/2009 CKHLOK
01/05/2009 INTEFSW 00004023 061050 10561014
01 FC:1462 400.00 CR

CERTIFICATE OF MAILING BY EFS-WEB FILING

I hereby certify that this paper was filed with the Patent and Trademark Office using the EFS-WEB system on this date: January 5, 2009

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 5/20/09 | 2 Serial/Patent # 10/561,014

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
✓	Other	1462		$ 400

7 TOTAL AMOUNT OF REFUND $ 400

8 TO BE REFUNDED BY:

Treasury Check

Credit Deposit A/C #:

9 06--1050

10 REASON:

Overpayment

Duplicate Payment

✓ No Fee Due (Explanation):

No Fee Due

11 REFUND REQUESTED BY: Mark Polutta

TYPED/PRINTED NAME: Mark Polutta TITLE: Senior Legal Advisor

SIGNATURE: [signature] PHONE: 2-7709

OFFICE: OPLA

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 5/21/09

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Petri Rekonen	: DECISION ON REQUEST FOR
Patent Number	: 7592285	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/561,016	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/12/2008	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **276** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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24 JAN 2006

EDWARDS ANGELL PALMER & DODGE LLP
P.O. Box 55874
Boston, MA 02205

In re Application of :
ONO, Mitsunori *et al* :
U.S. Application No.: 10/561,025 :
PCT No.: PCT/US2004/017064 :
Int. Filing Date: 28 May 2004 :
Priority Date: 29 May 2003 :
Attorney Docket No.: 61251USN (50586) :
For: HETEROCYCLIC COMPOUNDS FOR PREVENTING AND TREATING DISORDERS . . . :

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 16 December 2005 is hereby **GRANTED** as follows:

The basic national fee and petition fee for a small entity have been paid. Applicants' statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration was not included with any of the papers submitted.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee pursuant to 37 CFR 1.492(h) are required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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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DEFILLO & ASSOCIATES, INC.
4922 EAGLE COVE SOUTH DRIVE
PALM HARBOR, FL 34685

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OFFICE OF PETITIONS

In re Application of
HENKENHAF, Willi
Application No. 10/561,044
Filed: December 16, 2005
Attorney Docket No.

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), to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV and under 37 CFR 1.102(c)(1) to make the above-identified application special based on applicant's health as set forth in M.P.E.P § 708.2, Section III, filed November 14, 2006.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes the birth certificate and affidavit of inventor Willi Henkenhaf, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

In view of the above petition being granted and the application being made special, the petition under 37 CFR 1.102(c)(1), Section III, is **DISMISSED AS MOOT**.

Telephone inquiries concerning this decision should be directed to the undersigned 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 3745 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GORDON S. CLARK
180 BARTLETT BOULEVARD
COLLINGWOOD, ON L9Y5C9
CANADA

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DEC 0 5 2006

OFFICE OF PETITIONS

In re Application of :
HENKENHAF :
Application No. 10/561,044 : DECISION ON REQUEST FOR
Filed: December 16, 2005 : REVOCATION OF POWER
Attorney Docket No. : OF ATTORNEY
:

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed November 14, 2006.

The request is **APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DEFILLO & ASSOCIATES, INC.**
4922 EAGLE COVE SOUTH DRIVE
PALM HARBOR FL 34685

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/561,044	12/16/2005	Willi HENKENHAF	

CONFIRMATION NO. 1932

OC000000021468676

Gordon S. Clarke
180 Bartlett Blvd
Collingwood, ON L9Y5C9
CANADA

Date Mailed: 12/04/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/14/2006.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/561,044	12/16/2005	Willi HENKENHAF	

CONFIRMATION NO. 1932

OC000000021468700

58152
DEFILLO & ASSOCIATES, INC.
4922 EAGLE COVE SOUTH DRIVE
PALM HARBOR, FL 34685

Date Mailed: 12/04/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/14/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

ATTORNEY/APPLICANT COPY

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

COPY MAILED

APR 0 7 2008

OFFICE OF PETITIONS

In re Application of :
Daniel Christopher Brookings, et al. :
Application No. 10/561,050 : DECISION ON PETITION
Filed: June 29, 2006 : TO WITHDRAW
Attorney Docket No. CELL-0306 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed October 10, 2007

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Woodcock Washburn, LLP has been revoked by the assignee of the patent application on December 10, 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: MICHAEL S. GREENFIELD
MCDONNELL, BOEHNEN, HULBERT & BERGHOFF, LLP
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/561,050	06/29/2006	Daniel Christopher Brookings	CELL-0306 (07-1053-WO-US)

CONFIRMATION NO. 1921

20306
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

POA ACCEPTANCE LETTER

OC000000029271895

Date Mailed: 04/07/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/10/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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OFFICE OF PETITIONS

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

In re Application of :
Graham Robert Evans, et al. :
Application No. 10/561,051 : DECISION ON PETITION
Filed: June 8, 2006 : TO WITHDRAW
Attorney Docket No. CELL-0304 : 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 6, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Woodcock Washburn, LLP has been revoked by the assignee of the patent application on December 12, 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: MICHAEL S. GREENFIELD
MCDONNELL BOEHNEN HULBERT & BERGHOFF, LLP
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

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Woodcock Washburn LLP
Cira Centre, 12th Floor
2929 Arch Street
Philadelphia, PA 19104

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FEB 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Daniel Christopher Brookings et al.	:	
Application No. 10/561,052	:	DECISION ON PETITION
Filed: October 10, 2006	:	TO WITHDRAW
Attorney Docket No. Cell-0305	:	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 6, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Woodcock Washburn LLP has been revoked by the assignee of the patent application on December 10, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **McDonnell Boehnen Hulbert & Berghoff LLP**
300 S. Wacker Drive
32nd Floor
Chicago, IL 60606

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FISH & RICHARDSON PC
P.O. Box 1022
Minneapolis, MN 55440-1022

24 JAN 2006

In re Application of
ZGURIS, George
U.S. Application No.: 10/561,085
PCT No.: PCT/US2004/004949
Int. Filing Date: 19 February 2004
Priority Date: 19 February 2003
Attorney Docket No.: 13766-014US1
For: BATTERY CONTAINING FIBROUS MATERIAL

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 16 December 2005 is hereby **GRANTED** as follows:

The basic national fee and petition fee have been paid. Applicant's' statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration was not included with any of the papers submitted.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee pursuant to 37 CFR 1.492(h) are required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SNELL & WILMER L.L.P.
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA CA 92626

In re Application of :
Hiroshi YAHATA, et al. :

Application No. 10/561,087 : DECISION ON PETITION
Filed: December 16, 2005 : TO MAKE SPECIAL
For: **RECORDING MEDIUM, REPRODUCTION DEVICE, RECORDING METHOD, PROGRAM, AND REPRODUCTION METHOD** :

This is a decision on the petition filed August 28, 2006 (Certificate of Mailing dated August 22, 2006) under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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PANASONIC PATENT CENTER
1130 CONNECTICUT AVENUE NW, SUITE 1100
WASHINGTON, DC 20036

Mail Date: 04/20/2010

Applicant	: Joseph McCrossan	: DECISION ON REQUEST FOR
Patent Number	: 7664370	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/561,087	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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19 JAN 2006

ANDERSON & JANSSON L.L.P.
9501 N. CAPITAL OF TX HWY #202
AUSTIN TX 78759

In re Application of JOFFRAY
Application No.: 10/561,103
PCT No.: PCT/IB04/01959
Int. Filing: 08 June 2004
Priority Date: 12 June 2003
Attorney Docket No.: 76.0640 US/PR
For: SMART CARD WITH TWO I/O PORTS FOR LINKING SECURE AND INSECURE ENVIRONMENTS

DECISION ON

PETITION TO REVIVE

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 16 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $300 has been provided. The required petition fee of $1500 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of the Notification of Missing Requirements, indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: Franz Knauseder	: DECISION ON REQUEST FOR
Patent Number	: 7600354	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/561,106	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **123** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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APR 19 2010

OFFICE OF PETITIONS

MERCK
P O BOX 2000
RAHWAY NJ 07065-0907

In re Patent No. 7,595,316	:	DECISION ON REQUEST FOR
OHTAKE et al.	:	RECONSIDERATION OF
Issue Date: September 29, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/561,115	:	AND
Filed: December 15, 2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. BY0026	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 30, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred forty-six (346) 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 forty-six (346) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **three hundred forty-six (346) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

C-T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,595,316 B2

DATED : Sept. 29, 2009 **DRAFT**

INVENTOR(S) : OHTAKE 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 271 days

Delete the phrase "by 271 days" and insert – by 346 days--

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SCULLY SCOTT MURPHY & PRESSER
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

COPY MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Yoshikazu Kakura	:	
Application No. 10/561,128	:	ON PETITION
Filed: December 16, 2005	:	
Attorney Docket No. 19446	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 13, 2009

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply to the non-final Office action, mailed February 15, 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 May 16, 2008. The Office mailed a Notice of Abandonment on September 16, 2008.

It is obvious from reviewing the file that the Office action was mailed to the incorrect address. The Office action should have been mailed to the address set forth in the declaration and transmittal letter provided on filing.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The application is being forwarded to Group Art Unit 2617 for re-mailing of the February 15, 2008 Office action, setting a new period for reply.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

24 JAN 2007

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DARA L. ONOFRIO
ONOFRIO LAW
107 SHAD ROW
PIERMONT NY 10968

In re Application of:	:	
BEER, Robert, et al.	:	DECISION
U.S. Application No.: 10/561,134	:	
PCT No.: PCT/EP2004/006711	:	
International Filing Date: 22 June 2004	:	
Priority Date: 26 June 2003	:	
Atty Docket No.: ICH 303-US	:	
For: OPTICAL INTENSIFIER MATERIALS	:	

This decision is issued in response to the "Response To Notification Of Missing Requirements" filed 19 May 2006, treated herein as a petition under 37 CFR 1.181 to confirm the timely filing of an English translation of the international application. No petition fee is required.

BACKGROUND

On 22 June 2004, applicants filed international application PCT/EP2004/006711. The international application claimed a priority date of 26 June 2003, and it designated the United States. On 06 January 2005, 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., 26 December 2005. The published international application included 13 claims.

On 15 December 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 purported translation of the international application into English, and an executed declaration. The English translation of the international application filed on 15 December 2005 included 20 claims.

On 16 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that the translation of the international application filed on 15 December 2005 was defective based on the disparity between the number of claims listed in the translation and the number of claims contained in the international application. The Notification required submission of a proper translation and the processing fee required for filing the translation later than thirty months after the priority date.

On 19 May 2006, applicants filed the response to the Notification Of Missing requirements considered herein, accompanied by a translation of the original 13 claims contained in the international application. The submission argues that the translation filed 15 December 2005 should be accepted as a proper translation of the international application as filed, and that applicants should therefore not be required to pay the processing fee required for late submission of a translation.

DISCUSSION

37 CFR 1.495(c)(1)(i) requires national stage applicants to file a "translation of the international application, as filed, into the English language." Pursuant to 37 CFR 1.495(c)(3), the "payment of the processing fee set forth in § 1.492(i) is required for acceptance of an English translation later than the expiration of thirty months after the priority date."

Here, as noted above, the international application included 13 claims, while the translation filed 15 December 2005 included 20 claims. Applicants argue that the translated claims previously filed included all the language of the original claims (stating that the changes in the claims only involved the correction of multiple dependencies); however, as set forth in MPEP 1893.01(d) any changes in the translation, however minor, render the translation unacceptable:

> The translation must be a translation of the international application as filed or with any changes which have been properly accepted under PCT Rule 26 or any rectifications which have been properly accepted under PCT Rule 91. A translation of less than all of the international application (e.g., a translation that fails to include a translation of text contained in the drawings or a translation that includes a translation of claims amended under PCT Article 19 or 34 but does not include a translation of the original claims) is unacceptable. In addition, a translation that includes modifications other than changes that have been properly accepted under PCT Rule 26 or 91 (e.g., a translation that includes headings that were not present in the international application as originally filed) is unacceptable. A translation of words contained in the drawings must be furnished either in the form of new drawings or in the form of a copy of the original drawings with the translation pasted on the original text matter. See PCT Rule 49.5(d). ... Amendments, even those considered to be minor or to not include new matter, may not be incorporated into the translation. If an amendment to the international application as filed is desired for the national stage, it may be submitted in accordance with 37 CFR 1.121.

Thus, regardless of whether the modifications incorporated in the translation only involved the moving of language from one claim number to another, the translation is still not an acceptable translation of the claims "as filed," as required by the regulation. Moreover, it is noted that, while the present submission states that the "English Translation submitted with the filing contained 15 claims," the translated claims filed herein on 15 December 2005 actually included 20 claims. Thus, it is possible that additional changes beyond those referred to herein may have been incorporated into the translated claims filed 15 December 2005.

Based on the above, the 20 translated claims filed 15 December 2005 cannot be accepted as a translation of the claims "as filed" in the international application. The required translation was not filed until applicants' 19 May 2006 submission of an English translation of the 13 claims contained in the international application, as filed. Because these materials were not filed until more than thirty months after the priority date, applicants are required to pay the $130 processing fee for failure to file a proper translation within thirty months of the priority date.

Finally, it is noted that applicants have not submitted a proper preliminary amendment of the claims in compliance with 37 CFR 1.121, and the application file does not include an indication that these claims were amended during the international phase of the application. Accordingly, the claims of record remain the 13 claims set forth in the international application.

CONCLUSION

Applicants' petition under 37 CFR 1.181 to confirm the timely filing of an acceptable translation of the international application into English is **DISMISSED** without prejudice.

An acceptable translation of the claims contained in the international application as filed was included with the present submission filed 19 May 2006.

Based on the above, applicants are required to pay the $130 processing fee for filing the translation later than thirty months after the priority date, as set forth in the Notification Of Missing Requirements mailed 16 March 2006. The present submission included the authorization to charge Deposit Account No. 50-1541 for this fee; however, when this charge was attempted, the Deposit Account did not include the necessary funds. Accordingly, applicants' response to the Notification Of Missing Requirements mailed 16 March 2006 is defective.

Applicants have **ONE (1) MONTH** from the mail date of this decision to submit payment of this $130 processing fee. Failure to submit a timely and proper response will result in abandonment of the application.

EXTENSIONS OF TIME UNDER 37 CFR 1.136(a) ARE **NOT** AVAILABLE.

It is also noted that, if applicants desire to avoid additional claims fees based on the 13 claims of record (and the multiple dependencies contained therein), a proper Preliminary Amendment under 37 CFR 1.121 is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

0 6 JUL 2007

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Dara L. Onofrio
Onofrio Law
107 Shad Row
Piermont, NY 10968

In re Application of	:	
BEER, et al.	:	DECISION ON RENEWED
U.S. Application No.: 10/561,134	:	
PCT No.: PCT/EP04/06711	:	PETITION UNDER
Int. Filing Date: 22 June 2004	:	
Priority Date: 26 June 2003	:	37 CFR 1.181
Attorney Docket No.:ICH 303-US	:	
For: OPTICAL INTENSIFIER MATERIALS	:	

This decision is in response to applicant's renewed petition under 37 C.F.R. §1.181 filed 26 February 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 24 January 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.181 to confirm the timely filing of an English translation of the international application. Applicant was afforded one months to provide payment of the $130.00 processing fee for proving an English translation of the international application later than 30 months from the priority date.

On 26 February 2007, applicant filed the present petition under 37 CFR 1.181 accompanied by payment of the appropriate processing fee and a preliminary amendment. The petition contains certification under 37 CFR 1.8 that the papers were deposited for mailing on 22 February 2007 and are thus considered timely filed.

DISCUSSION

With the filing of the present renewed petition and accompanying papers applicant has satisfied all of the items of concern raised in the decision mailed 24 January 2007. Specifically, applicant has currently provided payment of the appropriate processing fee and a preliminary amendment. As such, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.181 is **GRANTED**.

The application has an international filing date of 22 June 2004 under 35 U.S.C. 363, and will be given a date of **19 May 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 571-272-3294
Fax: 571-273-0459

07/06/2007 SWASHEIK 00000001 501541 10561134
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BINGHAM MCCUTCHEN LLP
Three Embarcadero Center
San Francisco CA 94111-4067

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JAN 23 2008

OFFICE OF PETITIONS

Applicant: Jordan et al.
Appl. No.: 10/561,153
International Filing Date: March 28, 2006
Title: COMPOUNDS, COMPOSITIONS, AND METHODS FOR TREATMENT AND PREVENTION OF ORTHOPOXVIRUS INFECTIONS AND ASSOCIATED DISEASES
Attorney Docket No.: 704785-2001
Pub. No.: US 2006/0235051 A1
Pub. Date: October 19, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on December 19, 2006, for the above-identified application

The request is granted-in-part.

Applicant requests that the application be republished because the patent application publication contains material errors in paragraphs [0003], [0010], [0011], [0021], [0029], [0041], [0092], paragraph below "Example 41", [0104], abstract and the claims.

37 CFR 1.221 (b) is applicable "only when the Office makes **a material mistake** which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for republication of the application with respect to the errors in paragraphs [0003], [0010], [0011], [0021], [0029], [0041], [0092] and paragraph below "Example 41" is GRANTED. The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

[1]Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The errors noted by requestor with respect to the abstract and the claims are not Office errors, as the text does not appear in the abstract or claims as filed or previously amended.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

It would greatly benefit the Office if **applicant clearly** pointed out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

Inquiries relating to this matter may be directed to Mark 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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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

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APR 27 2009

OFFICE OF PETITIONS

In re Application of :
VIGH, Gyula et al. :
Application No. 10/561,154 : DECISION ON PETITION
Filed: April 02, 2007 : TO WITHDRAW
Attorney Docket No. **LIFT-055/01US 306510-2178** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 30, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 Thomas Blinka on behalf of all attorneys of record who are associated with customer No. 58249. All attorneys/agents associated with the Customer Number 58249 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence 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 at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **GYULA VIGH**
14410 DECKER DRIVE
MAGNOLIA TX 77355

cc: **WAYNE BELLMAN**
LIFE THERAPEUTICS LTD.
COMPANY MATTERS PTY LTD.
LEVEL 12, 680 GEORGE STREET
SYDNEY NSW 2000

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MAR 18 2010

OFFICE OF PETITIONS

PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON, DC 20005

In re Application of :
Yoshiaki Sato, et al. :
Application No. 10/561,166 : ON PETITION
Filed: December 16, 2005 :
Attorney Docket No. SUZ0025-US :

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2009, to revive the above-identified application.

The petition is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Aslan Baghdadi appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed May 29, 2009, which set a shortened statutory period for reply of three (3) months. In view of the 3-month extension of time under the provisions of 37 CFR 1.136(a), the application became abandoned on November 30, 2009. A Notice of Abandonment was subsequently mailed on December 8, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 3764 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Mail Date: 04/21/2010

Applicant	: Philippe Msika	: DECISION ON REQUEST FOR
Patent Number	: 7629371	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/561,173	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **615** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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SEP 12 2007

OFFICE OF PETITIONS

Applicant: Henot et al.
Appl. No.: 10/561,175
International Filing Date: June 22, 2004
Title: EPITOPE COMPOSITION FOR SUBLINGUAL, BUCCAL OR ENTERIC ADMINISTRATION PREPARED BY HYDROLYSIS OF ANTIGENIC STRUCTURES WITH CHYMOTRYPSIN
Attorney Docket No.: 2447.0030000/ELE/LMB
Pub. No.: 2006/0147459 A1
Pub. Date: July 6, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on September 6, 2006, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted or **complete copies of the publication**, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

Inquiries relating to this matter may be directed to Mark O. Polutta at (703) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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JUN 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,578,940 :
Issued: August 25, 2009 : DECISION ON APPLICATION
Application No. 10/561,182 : FOR PATENT TERM ADJUSTMENT
Filed: December 16, 2005 :
Attorney Docket No. 10993.0261 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-POST GRANT" filed October 26, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred twenty-five (325) days to four hundred thirty-five (435) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by four hundred thirty-four (434) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on December 17, 2008, three years and one the national stage commenced under 35 USC 371(f), and ended on April 5, 2009, the day before the RCE was filed, and the B delay is 109 (not 110) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 434, not 435 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days,** whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 06-0916. 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 **four hundred thirty-four (434)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,578,940 B2

DATED : August 25, 2009

INVENTOR(S) : Tomotaka Hashimoto

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 (325) days

Delete the phrase "by 325 days" and insert – by 434 days--

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Filip Zalio	: DECISION ON REQUEST FOR
Patent Number	: 7599335	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/561,192	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **678** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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26 OCT 2006

CLARK HILL, P.C.
500 WOODWARD AVENUE, SUITE 3500
DETROIT MI 48226

In re Application of
OTTINO et al.
Application No.: 10/561,202
PCT No.: PCT/EP04/51542
Int. Filing: 19 July 2004
Priority Date: 18 July 2003
Attorney Docket No.: 21908-103587
For: LOCK FOR A DOOR OF A MOTOR VEHICLE

DECISION ON PETITION
UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition under 37 CFR 1.47(a)" filed 06 September 2006 to accept the application without the signature of joint inventor, Giacomo Crotti. The $200 petition fee has been submitted.

BACKGROUND

On 19 July 2004, applicants filed international application PCT/EP04/51542, which claimed a priority date 18 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 February 2005. Pursuant to 37 CFR 1.495, the period for paying the basic national fee in the United States expired 30 months from the priority date, 18 January 2006.

On 19 December 2005, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and the international search report.

On 31 March 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 06 September 2006, applicants filed the present petition under 37 CFR 1.47(a) and a three-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1),(3) and (4) have been satisfied.

Regarding item (2) above, Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. Such a petition will be dismissed as inappropriate.
>
> The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted.
>
> Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

A review of the present petition reveals that petitioner has not satisfied item (2) above, in that the applicant has not shown that a bona fide attempt was made to present the application papers to Giacomo Crotti. Petitioner has provided a copy of the cover letter addressed to Giacomo Crotti mailed 16 June 2006. However, it is unclear as to the delivery status of the letter. Was the letter(s) returned as undeliverable? Was the letter received by Giacomo Crotti or by someone at the last known address? Further, were any other attempts made to locate Giacomo Crotti? The single mailing of the papers to the non-signing inventor's last known address does not constitute a "diligent" effort to locate the inventor. Applicant must show that alternative means were employed, such as a search of telephone and/or Internet directories, in an attempt to locate Mr. Giacomo Crotti. Additionally, the statements made with regards to the efforts to reach Giacomo Crotti constitutes secondhand knowledge, in that, the actions to which petitioner is averring to were conducted by Alex Porat

For the above reasons, it would not be appropriate to accept this application without the signature of Giacomo Crotti at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of

CUELLAR, JORGE
Application No. 10/561,207
Filed: November 03, 2006
Attorney Docket No. **449122085900**

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: **JORGE CUELLAR**
HOLLRIEGELSKREUTHER WEG 14
82065 BAIERBRUNN
GERMANY

cc: **BELL, BOYD & LLOYD LLC**
ATTN: KEVIN R. SPIVAK
70 WEST MADISON STREET
SUITE 3100
CHICAGO, ILLINOIS 60602-4207

2-15-07

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Shmuel BUKSHPAN	Confirmation no. 1608
Application No.: 10/561,244	Group Art Unit: 1765
Filed: December 19, 2005	Examiner:
For: METHOD AND APPARATUS FOR RAPID CRYSTALLIZATION OF BIOMOLECULES	Attorney Docket No.: 85189-10000

PETITION TO MAKE SPECIAL UNDER 37 CFR § 1.102(c)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Your Petitioner, Shmuel BUKSHPAN, through his undersigned attorney, hereby petitions the Commissioner for an order that the above-identified application be made special, and that the proceedings therein be expedited as much as possible.

This petition for special status is based on the applicant's age under 37 C.F.R. § 1.102(c). The applicant, Shmuel BUKSHPAN is over 65 years of age, as set forth in the accompanying DECLARATION OF SHMUEL BUKSHPAN IN SUPPORT OF PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(c).

Petitioner therefore respectfully requests that an order be issued authorizing and directing that the above-entitled application be made "special".

Respectfully submitted,

Date: 2/15/07

Allan A. Fanucci — 30,256 Reg. No.

WINSTON & STRAWN LLP
Customer Number 28765
(212) 294-3311

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700

MAR - 1 2007

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OFFICE OF PETITIONS

LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD, SUITE 300
ALEXANDRIA, VA 22314

In re Application of :
Zohar AGREST :
Application No. 10/561,263 : DECISION ON PETITION TO
Filed: March 9, 2007 : WITHDRAW FROM RECORD
Attorney Docket No. **1268-252** :

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 **NOT APPROVED.**

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. Specifically, pursuant to 37 CFR 10.40, the Office will require the practitioner(s) to certify that he, she or they have:

> (1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment;
>
> (2) delivered to the client or duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and
>
> (3) notified the client of any replies that may be due and the time frame within which the client must respond.

Petitioner has not complied with the above certifications. It is suggested that petitioner submit a properly completed PTO/SB/83 (effective date May 12, 2008), which provides a section wherein practitioners may certify the completion of the above-listed activities necessary for the request to withdraw from representation to be granted.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

16 MAR 2009

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Siemens Corporation
Intellectual Property Corporation
170 Wood Avenue South
Iselin NJ 08830

In re Application of	:	
AHMAD et al.	:	
Application No.: 10/561,279	:	DECISION ON
PCT No.: PCT/EP2004/005753	:	
Int. Filing Date: 27 May 2004	:	PETITION
Priority Date: 18 June 2003	:	
Attorney Docket No.: 2003P00685WOUS	:	
For: BLADE AND GAS TURBINE	:	

This decision is in response to the "REQUEST TO WITHDRAW THE HOLDING OF ABANDONMENT" filed 17 March 2008 in the United States Patent and Trademark Office (USPTO), which has properly been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 27 May 2004, applicant filed international application PCT/EP2004/005753, which designated the U.S. and claimed a priority date of 18 June 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 23 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 December 2005 (18 December 2005 being a Sunday).

On 15 December 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 22 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 a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION OF MISSING REQUIREMENTS set a two-month extendable time period.

On 29 February 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 22 January 2007 within the time period set therein.

On 17 March 2008, applicant filed the instant "REQUEST TO WITHDRAW THE HOLDING OF ABANDONMENT", which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

The petition filed 17 March 2008 requests that the copy of the declaration accompanying the petition be accepted as having been received on 20 March 2007 pursuant to 37 CFR 1.8(b).

37 CFR 1.8(b) states

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed or decided with prejudice, or the prosecution of a reexamination proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to § 1.957(a), the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing, transmission or submission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.

Items (1)-(3) have been satisfied. Therefore, the declaration received on 17 March 2008 may properly be accepted as originally received in the USPTO on 20 March 2007. Accordingly, the NOTIFICATION OF ABANDONMENT mailed 29 February 2008 is hereby VACATED.

Declaration of Inventors

The declaration filed 20 March 2007 is an improper composite declaration, consisting of one of Page 1, one of Page 2, one of Page 3 and two of Page 4. (Although an attempt has been made to label the pages as 1-5, the fact remains that the first page 4 and the second page 4 are the same page–the differences being that the first page 4 is signed by the two of the three listed

inventors and includes a handwritten note "see page 5" in place of the third signature while the second page 4 is signed by one of the three inventors and includes a handwritten note "see page 4" in place of the first and second signatures.) Each inventor must be presented with a complete declaration which lists all of the inventors, and the signature of each inventor must appear on at least one complete declaration. Multiple complete declarations may be submitted, but it is not permissible to combine pages of separate documents.

Further, the declaration filed 20 March 2007 is not sufficient because it contains non-initialed alterations (the labeling of the pages as "[] of 5" and the handwritten notes "see page 5" and "see page 4" in the signature blocks). 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.

DECISION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 29 February 2008 is hereby VACATED.

Applicants are required to file a proper declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the date of mailing of this decision. 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

31 JUL 2006

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

In re Application of
SPANGENBERG et al.
Application No.: 10/561,283
PCT No.: PCT/AU04/00802
Int. Filing Date: 18 June 2004
Priority Date: 20 June 2003
Attorney Docket No.: CASM126914
For: RYEGRASS POLLEN-SPECIFIC PROMOTERS AND EXPRESSION

DECISION ON REQUEST

UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Response to Notification of Defective Response/Request and Fee to Delete Original Erroneously Named Inventor", treated as a petition to correct inventorship under 37 CFR 1.497(d), filed on 12 June 2006 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to delete Michael Emmerling as inventor in the above referenced application. The requisite $130 petition fee was paid.

On 12 June 2006, applicant filed a response[1] to 19 May 2006 Notification of Defective Response. Petitioner requests correction of the inventorship, to delete Michael Emmerling as an inventor. In addition to the $130 petition fee, Petitioner provided the statement of Mr. Emmerling in support of the correction of inventorship under 37 CFR 1.497(d) and the written consent of the assignee. The declaration executed by the joint inventors was submitted on 03 May 2006. Accordingly, applicant has met all of the requirements to delete Michael Emmerling as co-inventor in the above-identified international application.

For the reasons discussed above, the submission under 37 CFR 1.497(d) to delete Michael Emmerling co-inventor is hereby **GRANTED**. The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **03 May 2006.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: (571)272-3286

---

[1] The inventorship of an international application entering the national stage under 35 U.S.C.371 is that inventorship set forth in the international application, which includes any changes effected under PCT Rule 92*bis*. *See* 37 CFR 1.41(a)(4). Accordingly, an oath or declaration that names an inventive entity different than that set forth in the international application will not be accepted for purposes of entering the U.S. national phase unless the requirements under 37 CFR 1.497(d) are satisfied. These requirements include: (A) 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; (B) the processing fee set forth in 37 CFR 1.17(i); and (C) the written consent of the assignee if an assignment has been executed by any of the original named inventors (see 37 CFR 3.73(b)).

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910 NORTHUMBERLAND DRIVE
SCHENECTADY, NY 12309-2814

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OFFICE OF PETITIONS

In re Application of
Karsten Sternickel, et al.
Application No. 10/561,285
Filed: December 20, 2005
Attorney Docket No. CMIP003NAT

ON PETITION

This is a decision on the petition under 37 CFR 1.313(a), filed April 12, 2010, to withdraw the above-identified application from issue.

The petition is **DISMISSED**.

Petitioner requests that the present application be withdrawn from issue for consideration of an IDS filed on April 12, 2010.

37 CFR 1.313(a) states, in part:

> Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

As such, a grantable petition requesting withdrawal of an application from issue must be accompanied by: (1) a showing of good and sufficient reasons why withdrawal of the application from issue is necessary; and (2) the requisite petition fee under 37 CFR 1.17(h). The petition fee of $130 has been charged to petitioner's deposit account.

However, the petition does not set forth good and sufficient reasons as to why withdrawal of the application from issue is necessary. The mere submission of an IDS with the petition does not make withdrawal of the application from issue necessary. There are other avenues open to applicant to have an IDS considered other than by way of petition.

Following the part of 37 CFR 1.313(a) cited above, 37 CFR 1.313(a) goes on to state:

A petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee.

The filing of a request for continued examination (RCE) under 37 CFR 1.114 with a submission and the fee set forth in 37 CFR 1.17(e) would have been a proper available option to have the IDS considered. It is well documented that an IDS satisfies the submission requirement under 37 CFR 1.114. *See* MPEP 706.07(h)(II).

For the above reasons, this application will not be withdrawn from issue under the provisions of 37 CFR 1.313(a).

The issue fee in this application has not been received. If the IDS is not favorably considered by the examiner, petitioner may wish to file a petition under 37 CFR 1.313(c)(2) after the payment of the issue and publication fee(s).

Any inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This matter is being referred to Technology Center AU 3762 for appropriate action on the IDS filed April 12, 2010.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

0 1 OCT 2007

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JOHN E. VANDIGRIFF
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1660 S. STEMMONS, SUITE 300
LEWISVILLE, TEXAS 75067

JOHN E. VANDIGRIFF
906 STONE CIRCLE LANE
LEWISVILLE, TEXAS 75056

In re Application of
PAULINE HARDY et al.
Application No.: 10/561,293
PCT No.: NONE
Deposit date: 20 December 2005
Attorney Docket No.: Boat - TM
For: BOAT LATCH

: DECISION ON
:
: PETITION UNDER
:
: UNDER 37 CFR 1.182

This is in response to applicant's "Petition under 37 CFR 1.182" to requesting that papers filed on 20 December 2005 be processing as an application filed under 35 U.S.C. 111(a). The petition was filed in the United States Patent and Trademark Office on 06 August 2007.

On 20 December 2005, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States which identified an Australian patent application AU 20044900602. The papers submitted included a specification entitled Boat Latch, claims and drawings and a certified copy of an Australian provisional application. The basic national fee, search fee and examination fee were also paid, totaling to $500. On 02 March 2007, applicant filed a copy of the papers originally filed.

Applicant used Form PTO-1390, entitled "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Submission under 35 U.S.C. 371". This form is used when applicant has filed an international application and wishes to file that application, entering the U.S. national stage. It is not the transmittal letter used to file a regular utility application in the U.S. under 35 U.S.C. 111(a).

On 26 July 2007, applicant was advised that a review of the application papers revealed that the Transmittal Letter and other papers did not identify a PCT international application. The Transmittal Letter (Form PTO-1390) used by applicant identified an Australian application "AU20044900602". An Australian application did not entitle applicant to submit his patent application under 35 U.S.C. 371, which is reserved for the U.S. national stage of a PCT international application. Applicant was further advised that in order to continue processing the papers as a national stage application, applicant must submit a petition under 37 CFR 1.182 to correct the error in the Transmittal Letter (Form PTO-1390) submitted on 20 December 2005 and provide the correct PCT number for his international application. This petition must be accompanied by the $400 petition fee and a corrected version of the Transmittal Letter (Form

PTO-1390).

On 06 August 2007, applicant filed the instant petition under 37 CFR 1.182 requesting treatment of the application papers under 35 U.S.C. 111(a) filed on 20 December 2005 in the above referenced application. A petition under 37 CFR 1.182 is not necessary as applicant is not correcting an international application number. The $400 petition fee will be refunded.

Applicant's instructions indicate that the papers assigned application no. 10/561,293 be treated as filed under 35 U.S.C. 111(a). In view of the above, it is proper to treat the initial filing as a filing under 35 U.S.C. 111(a). *See* MPEP 1893.03(a).

CONCLUSION

For the reason set forth above, the petition under 37 CFR 1.182 is **DISMISSED AS MOOT.**

This application will be forwarded to the Office of Initial Patent Examination (OIPE) for further processing and to accord a filing date of **20 December 2005.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 571-272-3286
Facsimile: 571-273-0459

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26 JUL 2007

JOHN E. VANDIGRIFF
906 Stone Circle Ln
LEWISVILLE, TEXAS 75056

In re Application of
PAULINE HARDY et al.
Application No.: 10/561,293
PCT No.: NONE
Deposit date: 20 December 2005
Attorney Docket No.: None
For: BOAT LATCH

DECISION ON RESPONSE

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371.

On 20 December 2005, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States which identified an Australian patent application AU 20044900602. The papers submitted included a specification entitled Boat Latch, claims and drawings and a certified copy of an Australian provisional application. The basic national fee, search fee and examination fee were also paid, totaling to $500. On 02 March 2007, applicant filed a copy of the papers originally filed.

Applicant used Form PTO-1390, entitled "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Submission under 35 U.S.C. 371". This form is used when applicant has filed an international application and wishes to file that application, entering the U.S. national stage. It is not the transmittal letter used to file a regular utility application in the U.S. under 35 U.S.C. 111(a).

A review of the application papers reveals that the Transmittal Letter and other papers do not identify a PCT international application. The Transmittal Letter (Form PTO-1390) used by applicant identifies an Australian application "AU20044900602". An Australian application does not entitle applicant to submit his patent application under 35 U.S.C. 371, which is reserved for the U.S. national stage of a PCT international application.

In order to continue processing the papers as a national stage application, applicant must submit a petition under 37 CFR 1.182 to correct the error in the Transmittal Letter (Form PTO-1390) submitted on 20 December 2005 and provide the correct PCT number for his international application. This petition must be accompanied by the $400 petition fee and a corrected version of the Transmittal Letter (Form PTO-1390).

If applicant determines that a national stage application is not applicable, then applicant should file a petition under 37 CFR 1.182. This petition must be accompanied by the $400 petition fee and provide instructions to handle the papers filed on 20 December 2005 as a U.S. patent application under 35 U.S.C. 111(a).

Applicant is given TWO (2) MONTHS from the mail date of this Communication to submit the required petition. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286
Facsimile: (571)273-0459

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26 JUL 2007

JOHN E. VANDIGRIFF
906 Stone Circle Ln
LEWISVILLE, TEXAS 75056

In re Application of
PAULINE HARDY et al.
Application No.: 10/561,293
PCT No.: NONE
Deposit date: 20 December 2005
Attorney Docket No.: None
For: BOAT LATCH

DECISION ON RESPONSE

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371.

On 20 December 2005, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States which identified an Australian patent application AU 20044900602. The papers submitted included a specification entitled Boat Latch, claims and drawings and a certified copy of an Australian provisional application. The basic national fee, search fee and examination fee were also paid, totaling to $500. On 02 March 2007, applicant filed a copy of the papers originally filed.

Applicant used Form PTO-1390, entitled "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Submission under 35 U.S.C. 371". This form is used when applicant has filed an international application and wishes to file that application, entering the U.S. national stage. It is not the transmittal letter used to file a regular utility application in the U.S. under 35 U.S.C. 111(a).

A review of the application papers reveals that the Transmittal Letter and other papers do not identify a PCT international application. The Transmittal Letter (Form PTO-1390) used by applicant identifies an Australian application "AU20044900602". An Australian application does not entitle applicant to submit his patent application under 35 U.S.C. 371, which is reserved for the U.S. national stage of a PCT international application.

In order to continue processing the papers as a national stage application, applicant must submit a petition under 37 CFR 1.182 to correct the error in the Transmittal Letter (Form PTO-1390) submitted on 20 December 2005 and provide the correct PCT number for his international application. This petition must be accompanied by the $400 petition fee and a corrected version of the Transmittal Letter (Form PTO-1390).

If applicant determines that a national stage application is not applicable, then applicant should file a petition under 37 CFR 1.182. This petition must be accompanied by the $400 petition fee and provide instructions to handle the papers filed on 20 December 2005 as a U.S. patent application under 35 U.S.C. 111(a).

Applicant is given TWO (2) MONTHS from the mail date of this Communication to submit the required petition. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286
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CIBA CORPORATION/PATENT DEPARTMENT
540 WHITE PLAINS ROAD
P.O. BOX 2005
TARRYTOWN, NY 10591

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AUG 20 2008

In re Patent No. 7,288,585 :
Issue Date: October 30, 2007 :
Application No. 10/561,297 : ON PETITION
Filed: December 20, 2005 :
Attorney Docket No. PP/15-22899/CGM 529/PCT :

This is a decision on the petition under 37 CFR 1.183 filed February 7, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the April M. Wise at (571) 272-1642. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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United States Patent and Trademark Office
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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Minoru Yoshida	: DECISION ON REQUEST FOR
Patent Number	: 7662778	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/561,298	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/07/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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12 JAN 2005

Phillips Electronics North American Corporation
Intellectual Property & Standards
1109 McKay Drive, M/S41-SJ
San Jose, CA 95131

In re Application of :
VOORMAN et al. :
Application No.: 10/561,302 : DECISION ON PETITION
PCT No.: PCT/IB03/04562 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 13 October 2003 :
Priority Date: 07 November 2002 :
Attorney Docket No.: NL021084US :
For: UPSIDE-DOWN PHOTO DETECTOR :

The petition to revive under 37 CFR 1.137(b) filed 19 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Mitsuru Shingyohuchi, et al. :
Application No. 10/561,303 : DECISION ON PETITION
Filed: December 19, 2005 :
Attorney Docket No. 2271/75606 :

This is a decision on the petition, filed October 20, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed March 24, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 15, 2009.

Petitioner asserts that the Office action dated March 24, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

Telephone inquiries concerning this decision should be directed to April M. Wise 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 the Technology Center technical support staff of Art Unit 2861 for re-mailing the Office action of March 24, 2009. The period for reply will run from the mailing date of the Office action.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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10 JAN 2006

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
1109 MCKAY DRIVE, M/S-41SJ
SAN JOSE, CA 95131

In re Application of GROVER :
U.S. Application No.: 10/561,308 :
PCT Application No.: PCT/IB04/01791 :
Int. Filing Date: 21 May 2004 : DECISION
Priority Date Claimed: 31 May 2003 :
Attorney Docket No.: GB03 0082 US :
For: TERMINATION STRUCTURES FOR :
SEMICONDUCTOR DEVICES AND THE :
MANUFACTURE THEREOF :

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 19 December 2005.

BACKGROUND

On 21 May 2004, applicant filed international application PCT/IB04/01791, which claimed priority of an earlier United Kingdom application filed 31 May 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 09 December 2004. The thirty-month period for paying the basic national fee in the United States expired on 30 November 2005.

International application PCT/IB04/01791 became abandoned as to the United States for failure to timely pay the basic national fee.

On 19 December 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

07 FEB 2008
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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NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

In re Application of GROVER :
U.S. Application No.: 10/561,308 :
PCT Application No.: PCT/IB04/01791 :
Int. Filing Date: 21 May 2004 : DECISION
Priority Date Claimed: 31 May 2003 :
Attorney Docket No.: GB03 0082 US :
For: TERMINATION STRUCTURES FOR :
SEMICONDUCTOR DEVICES AND THE :
MANUFACTURE THEREOF :

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 January 2008.

BACKGROUND

On 21 May 2004, applicant filed international application PCT/IB04/01791, which claimed priority of an earlier United Kingdom application filed 31 May 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 09 December 2004. The thirty-month period for paying the basic national fee in the United States expired on 30 November 2005.

International application PCT/IB04/01791 became abandoned as to the United States for failure to timely pay the basic national fee.

On 19 December 2005, applicant a present petition under 37 CFR 1.137(b).

On 10 January 2006, this Office mailed a decision granting the 19 December 2005 petition.

On 24 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.

The present national stage application became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 17 January 2008, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 21 May 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 17 January 2008.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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23 JAN 2006

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
1109 MCKAY DRIVE, M/S-41SJ
SAN JOSE CA 95131

In re Application of	:	
SCHOLZE	:	
Application No.: 10/561,309	:	DECISION ON
PCT No.: PCT/IB03/05642	:	
Int. Filing Date: 04 December 2003	:	PETITION UNDER
Priority Date: 16 December 2002	:	
Attorney Docket No.: DE02 0316 US	:	37 CFR 1.137(b)
For: METHOD OF FILTERING AN IMAGE WITH BAR-SHAPED STRUCTURES	:	

This decision is in response to applicants' submission filed 19 December 2005.

BACKGROUND

On 04 December 2003, applicants filed international application PCT/IB03/05642 which designated the U.S. and claimed a priority date of 16 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 01 July 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 16 June 2005.

On 19 December 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 19 December 2005.

As to item (2), applicant submitted the petition fee on 19 December 2005.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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SNELL & WILMER L.L.P.
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA CA 92626

MAILED

NOV 22 2006

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
YAHATA, HIROSHI, et al.
Application No. 10/561,314
Filed: December 19, 2005
For: **RECORDING MEDIUM, REPRODUCTION DEVICE, RECORDING METHOD, PROGRAM, AND REPRODUCTION METHOD**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed August 21, 2006 and re-submitted on October 24, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/561316	05/18/06	GARNAES, SVEND ESKIL	378/9-2184

WILLIAM J. SAPONE
COLEMAN SUDOL SAPONE P.C.
714 COLORADO AVENUE
BRIDGE PORT CT 06605

EXAMINER	
TSAI, CAROL	
ART UNIT	PAPER NUMBER
2857	

DATE MAILED: 9/7/07

NOTICE OF RESCINDED ABANDONMENT

☐ **In response to your communication filed** 9-6-07

☒ **Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded.**

For
Manager, Publications Division
Office of Patent Publication
571-272-4200

COLEMAN SUDOL SAPONE P.C.
714 Colorado Ave.
Bridgeport, CT 06605-1601
(203)366-3560
Fax: (203)335-6779

PTO TELECOPIER COVER SHEET

RECEIVED
SEP-6 2007
CUSTOMER SERVICE
PUBLISHING DIVISION

DATE: 6 September 2007 **FILE:** 378/9-2184

TELECOPIER NO. TRANSMITTING FROM: 203-335-6779

TELECOPIER NO. TRANSMITTING TO: 703 308-5065

PATENT APPLICATION SERIAL #.: 10/561,316

TITLE: METHOD OF EXECUTING A LEAK CONTROL SYSTEM AND A LEAK CONTROL SYSTEM FOR PERFORMING THE METHOD

TO: Ms. Terry Dyson

PAPER BEING TRANSMITTED: Petition under 37 CFR 1.181 (a) to Withdraw a Holding of Abandonment

FROM: William J. Sapone, Esq., Reg. No. 32,518

NUMBER OF PAGES INCLUDING THIS PAGE: 6

COMMENTS:

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I hereby certify that this paper and the papers referred to herein are being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Type or pint name of person signing certification.

Kristine C. Bruno

Signature **Date: 6 September 2007**

Docket No.: 378/9-2184

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Svend Eskil GARNAESI Art Unit: 2857

Serial No.: 10/561,316 Conf. No.: 2792

Filed : 20 December 2005

For : A METHOD OF EXECUTING A LEAK CONTROL SYSTEM AND A LEAK CONTROL SYSTEM FOR PERFORMING THE METHOD

Mail Stop: Issue Fee
Commissioner for Patents
Washington, D.C. 20231

PETITION UNDER 37CFR 1.181 (a) TO WITHDRAW A HOLDING OF ABANDONMENT

Sir:

In response to the Notice of Abandonment mailed 31 August 2007, the Applicant hereby petitions to withdraw the holding of abandonment.

The Application was allegedly abandoned for a failure to timely pay the required issue fee and publication fee.

Enclosed herewith are the documents submitted on 13 June 2007, and in view of the timely submission of the papers, the application should not have been abandoned.

Consequently, the holding of abandonment is incorrect and should be withdrawn. Please charge the issue fee and any other fees required or credit any overpayment to deposit account 04-0838.

Respectfully submitted,

William J. Sapone
Registration No. 32,518
Attorney for Applicant(s)

COLEMAN SUDOL SAPONE, P.C.
714 Colorado Avenue
Bridgeport, Connecticut 06605-1601
Telephone No. (203) 366-3560
Facsimile No. (203) 335-6779

COLEMAN SUDOL SAPONE P.C.
714 Colorado Ave.
Bridgeport, CT 06605-1601
(203)366-3560
Fax: (203)335-6779

PTO TELECOPIER COVER SHEET

DATE: 13 June 2007 **FILE:** 378/9-2184

TELECOPIER NO. TRANSMITTING FROM: 203-335-6779

TELECOPIER NO. TRANSMITTING TO: 1 571 273-2885

PATENT APPLICATION SERIAL #.: 10/561,316

TITLE: METHOD OF EXECUTING A LEAK CONTROL SYSTEM AND A LEAK CONTROL SYSTEM FOR PERFORMING THE METHOD

EXAMINER: Carol S.W. Tsai

PAPER BEING TRANSMITTED: Issue fee Transmittal

FROM: William J. Sapone, Esq., Reg. No. 32,518

NUMBER OF PAGES INCLUDING THIS PAGE: 2

COMMENTS:

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I hereby certify that this paper and the papers referred to herein are being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Type or pint name of person signing certification.

Kristine C. Bruno

Date: 13 June 2007

Signature

****
*** TX REPORT ***
****

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PGS. SENT	2
RESULT	OK

COLEMAN SUDOL SAPONE P.C.
714 Colorado Ave.
Bridgeport, CT 06605-1601
(203)366-3560
Fax: (203)335-6779

PTO TELECOPIER COVER SHEET

DATE: 13 June 2007 **FILE:** 378/9-2184

TELECOPIER NO. TRANSMITTING FROM: 203 335-6779

TELECOPIER NO. TRANSMITTING TO: 1 571 273-2885

PATENT APPLICATION SERIAL #.: 10/561,31

TITLE: METHOD OF EXECUTING A LEAK CONTROL SYSTEM AND A LEAK CONTROL SYSTEM FOR PERFORMING THE METHOD

EXAMINER: Carol S.W. Tsai

PAPER BEING TRANSMITTED: Issue fee Transmittal

FROM: William J. Sapone, Esq., Reg. No. 32,518

NUMBER OF PAGES INCLUDING THIS PAGE: 2

COMMENTS:

Auto-Reply Facsimile Transmission

TO: Fax Sender at 2033356899

Fax Information
Date Received: 6/13/2007 11:38:37 AM [Eastern Daylight Time]
Total Pages: 2 (including cover page)

ADVISORY: This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received Cover Page ========>

COLEMAN SUDOL SAPONE P.C.
714 Colorado Ave.
Bridgeport, CT 06605-1601
(203)366-3560
Fax: (203)335-6779

PTO TELECOPIER COVER SHEET

DATE: 13 June 2007 **FILE:** 378/9-2184

TELECOPIER NO. TRANSMITTING FROM: 203-335-6779

TELECOPIER NO. TRANSMITTING TO: 1 571 273-2885

PATENT APPLICATION SERIAL #.: 10/561,315

TITLE: METHOD OF EXECUTING A LEAK CONTROL SYSTEM AND A LEAK CONTROL SYSTEM FOR PERFORMING THE METHOD

EXAMINER: Carol S.W. Tsai

PAPER BEING TRANSMITTED: Issue fee Transmittal

FROM: William J. Sapone, Esq., Reg. No. 32,518

NUMBER OF PAGES INCLUDING THIS PAGE: 2

COMMENTS:

CERTIFICATION OF FACSIMILE TRANSMISSION:

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Type or print name of person signing certification.

Kristine C. Bruno

Signature Date: 13 June 2007

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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Paper No.

BUCKLEY, MASCHOFF & TALWALKAR LLC
50 LOCUST AVENUE
NEW CANAAN CT 06840

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DEC 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Gershon	:	
Application No. 10/561,323	:	DECISION ON PETITION
Filed: December 19, 2005	:	PURSUANT TO
Attorney Docket No.: JG-RP-5170PCT/US/500561.2	:	37 C.F.R. § 1.137(B)
Title: MICROBICIDAL, PROPHYLACTIC AND THERAPEUTIC EFFECT OF CTC-96 ON PAPILLOMA VIRUSES	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed August 31, 2009, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The change of correspondence address received on August 31, 2009 has been entered and made of record.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 23, 2008, 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 December 24, 2008. A notice of abandonment was mailed on May 8, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office

action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on August 31, 2009 can be processed in due course.

Petitioner has also submitted a three-month extension of time. An extension of time under 37 C.F.R. § 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] Accordingly, since the $555 extension of time submitted with the petition on August 31, 2009 was filed subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to the appropriate credit card.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

1 See Rule 1.137(d).
2 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning this application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ISIS PHARMACEUTICALS, INC
1896 RUTHERFORD ROAD
CARLBAD CA 92008

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OFFICE OF PETITIONS

In re Application of
KRAYNACK, Brian A. et al.
Application No. 10/561,324
Filed: April 19, 2006
Attorney Docket No. **CHEM0021USA**

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 12, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Isis Pharmaceuticals, Inc has been revoked by the assignee of the patent application on January 26, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **WOODCOCK WASHBURN LLP**
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/561,324	04/19/2006	Brian A. Kraynack	CHEM0021USA

CONFIRMATION NO. 5906

OC000000023594422

34138
ISIS PHARMACEUTICALS, INC
1896 RUTHERFORD ROAD
CARLBAD, CA 92008

Date Mailed: 04/30/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/26/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
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23 JAN 2006

Judith M. Riley
Gifford, Krass, Groth, Sprinkle,
Anderson & Citkowski, P.C.
P.O. Box 7021
Troy, MI 48007-7021

In re Application of	:	DECISION ON
BAILEY, Marshall, G.	:	
Application No.: 10/561,331	:	
PCT No.: PCT/GB2004/002544	:	
Int. Filing Date: 14 June 2004	:	PETITION UNDER
Priority Date: 12 June 2003	:	
Attorney's Docket No.: CAF-34902/03	:	
For: SCREENING APPARATUS	:	37 CFR 1.137(b)

This decision is in response to applicant's "Petition For Revival Of An International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 16 December 2005.

BACKGROUND

On 14 June 2004, this international application was filed, claiming an earliest priority date of 12 June 2003. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 12 December 2005. This international application became abandoned with respect to the United States at midnight on 12 December 2005 for failure to pay the required basic national fee.

On 16 December 2005, applicant filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied, inter alia, by the basic national fee, the petition fee and an executed declaration.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

The required fee of $65.00 (the surcharge under 1.492(e) for late filing of the declaration) has been charged to Deposit Account No.: 07- 1180 as authorized in the transmitted letter submitted on 16 December 2005.

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 **16 December 2005.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 272-0459

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HARRINGTON & SMITH, PC
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SHELTON CT 06484-6212

COPY MAILED

JAN 26 2009

OFFICE OF PETITIONS

In re Application of :
VERMOLA et al. :
Application No. 10/561,337 : DECISION ON PETITION
Filed: 12/15/2005 :
Attorney Docket No. 886A.0018U1(US) :

This is a decision on the petition under 37 CFR 1.137(a), which is being treated as a petition under 37 CFR 1.181 (no fee), filed December 4, 2008, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the nonfinal Office action mailed February 4, 2008, which set a three (3) month shortened statutory period for reply. In the absence of a timely filed reply, the application became abandoned on May 5, 2008. On September 2, 2008, the Office mailed a Notice of Abandonment.

Petitioner asserts that the nonfinal Office action dated mailed February 4, 2008, was not received at the correspondence address of record.

A review of the written record indicates no irregularity in the mailing of the Office action and in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received.

As stated in Section 711.03(c)(I)(A) of the Manual for Patent Examining Procedure:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice

of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner submitted a copy of the docket records showing all action items due on Sunday, May 4, 2008 and Monday, May 5, 2008, and the corresponding date the action was timely completed. The

practitioner stated the nonfinal Office action would have been entered in this docketing system had it been received and docketed. The practitioner attested to the fact that a search of the records indicated that the nonfinal Office action was not received at the correspondence address of record. Accordingly, petitioner presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. The holding of abandonment is hereby withdrawn. As no petition fee is required, the Office will refund the $540.00 fee submitted with the petition.

The matter is being referred to the Technology Center 2671 for appropriate action on the reply filed December 4, 2008.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/9/06

TO SPE OF : ART UNIT 1648 Sharon Hunt

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/561343 Patent No.: 7434522

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Certificates of Correction Branch

703-756-1571 _____

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: _____

Patrick J. Nolan

SPE

1648

Art Unit

PATRICK J. NOLAN, PH.D.
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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0 4 OCT 2007

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
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CHICAGO IL 60606

In re Application of:
BAN, Ju Hyun, et al.
U.S. Application No.: 10/561,351
PCT No.: PCT/KR2004/001854
International Filing Date: 23 July 2004
Priority Date: 24 July 2003
Attorney's Docket No.: 05-616-B
For: METHOD FOR AUTOMATICALLY SETTING A FREQUENCY OF A BASE STATION IN A CDMA-2000 SYSTEM

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(b) By Person Having Proprietary Interest To File Application On Behalf Of Inventor Who Refuses To Cooperate" filed 16 April 2007, treated herein under 37 CFR 1.47(a). Applicants have submitted the required petition fee.

BACKGROUND

On 22 July 2004, applicants filed international application PCT/KR2004/001854. The application claimed a priority date of 24 July 2003, and it designated the United States. On 03 February 2005, 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., 24 January 2006.

On 19 December 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 12 September 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497 was required.

On 16 April 2007, applicants filed a response to the Notification Of Missing Requirements (with required extension fee) which included a declaration executed by one of the two inventors, and the petition under 37 CFR 1.47(b) considered herein. The petition seeks

acceptance of the application without the signature of the non-singing inventor Sang Won SON, whom applicants assert has refused to execute the application.

DISCUSSION

The present petition was filed under 37 CFR 1.47(b). However, by its express terms, 37 CFR 1.47(b) applies only to circumstances where "all of the inventors refuse to execute an application for patent, or cannot be found after diligent effort." Where at least one of the inventors has executed a declaration, as is the case here, the applicable regulation is 37 CFR 1.47(a). Accordingly, the present petition is treated herein under 37 CFR 1.47(a).

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Here, applicants have submitted the required petition fee, and the petition expressly states the last known address of the non-signing inventor. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Applicants here have filed a declaration executed by inventor Ju Hyun BAN, which contains an unsigned signature block for the non-signing inventor Sang Won SON. However, applicants have also submitted a separate declaration executed on behalf of the non-signing inventor by Robert J. Irvine, a representative of the purported assignee.[1] The submission of a declaration expressly executed on behalf of the non-signing inventor by a third party eliminates the presumption that the cooperating inventor, Ju Hyun BAN, signed the declaration on his own behalf and on behalf of the non-signing inventor, as required. Accordingly, the declaration submitted herein cannot be accepted in satisfaction of item (3), above. In order to satisfy this requirement, applicants must submit a newly executed declaration from the cooperating joint inventor which complies with 37 CFR 1.497 and which includes an un-signed signature block for the non-signing inventor. Based on the above, item (3) is not satisfied on the present record.

Regarding item (4), where it is asserted that an inventor has refused to execute the application papers, section 409.03(d) of the MPEP states that a "copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning

[1] By the terms of 37 CFR 1.47(a), only the other joint inventors may sign the declaration on behalf of the non-signing inventor. The assignee may only sign such a declaration where 37 CFR 1.47(b) applies, that is, where none of the joint inventors have executed the application; this is not the case here.

inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." Here, applicants have provided first hand statements, with documentary support, confirming that the applicant has been requested to provide a signed declaration, that a copy of the complete application was provided to the inventor, and that the inventor expressly stated that he would not cooperate. This submission is accepted as showing that the non-signing inventor has refused to execute the application. Item (4) is therefore satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the materials required to satisfy item (3) of a grantable petition, as discussed above and in the MPEP, that is, a declaration in compliance with 37 CFR 1.497 that may be accepted as having been executed by the cooperating inventor on his behalf and on behalf of the non-signing inventor. No additional petition fee is required.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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11 DEC 2007

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

In re Application of:
BAN, Ju Hyun, et al.
U.S. Application No.: 10/561,351
PCT No.: PCT/KR2004/001854
International Filing Date: 23 July 2004
Priority Date: 24 July 2003
Attorney's Docket No.: 05-616-B
For: METHOD FOR AUTOMATICALLY SETTING A FREQUENCY OF A BASE STATION IN A CDMA-2000 SYSTEM

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

In a decision mailed by this Office on 04 October 2007, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice for failing to satisfy all the requirements of a grantable petition. Specifically, applicants had not submitted a declaration which could be accepted as having been executed by the cooperating inventor on his own behalf and on behalf of the non-signing inventor.

On 04 December 2007, applicants filed the renewed petition considered herein. The renewed petition is accompanied by a copy of a new declaration executed by inventor Ju Hyun BAN, which contains an unsigned signature block for the non-signing inventor Sang Won SON. The present submission does not include any indication that this declaration was not executed by Ju Hyun BAN on his own behalf and on behalf of the non-signing inventor. Accordingly, the declaration included with the renewed petition is accepted as having been signed by Ju Hyun BAN on his own behalf and on behalf of the non-signing inventor.

Based on the above, applicants have satisfied the final outstanding requirement for a grantable petition under 37 CFR 1.47(a).

The renewed petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted without the signature of non-signing inventor Sang Won SON.

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 04 December 2007.

Richard M. Ross
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11 DEC 2007

Sang Won SON
#203
94-2 Sanbon 1-dong
Gunpo-si, Gyeonggi-do 435-838
REPUBLIC OF KOREA

In re Application of: BAN, Ju Hyun, et al.
U.S. Application No.: 10/561,351
PCT No.: PCT/KR2004/001854
International Filing Date: 23 July 2004
Priority Date: 24 July 2003
Attorney's Docket No.: 05-616-B
For: METHOD FOR AUTOMATICALLY SETTING A FREQUENCY OF A BASE STATION IN A CDMA-2000 SYSTEM

Dear Mr. SON:

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
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Counsel Of Record:
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
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07 FEB 2006

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OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue Of The Americas
New York, NY 10036-8402

In re Application of:	:	
SHIFRIN, Edward, G., et al.	:	DECISION ON PETITION FOR
U.S. Application No.: 10/561,354	:	REVIVAL OF ABANDONED
PCT No.: PCT/IL2004/000155	:	APPLICATION UNDER
International Filing Date: 19 February 2004	:	37 CFR 1.137(b)
Priority Date: 09 March 2003	:	
Attorney's Docket No.: P/826-9	:	
For: STERNAL CLOSURE SYSTEM, METHOD AND APPARTUS THEREFOR	:	

The petition for revival under 37 CFR 1.137(b) filed 19 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statements that "the entire delay in the filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b)" satisfies the requirements of 37 CFR 1.137(b)(3).

Applicant has submitted the small entity basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an executed oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: Masaru Shinohara	: DECISION ON REQUEST FOR
Patent Number	: 7641967	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/561,358	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **149** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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18 JAN 2006

Adams Evans
2180 Two Wachovia Center
301 S Tryon Street
Charlotte NC 28282-1991

In re Application of	:	
EVANS	:	
Application No.: 10/561,359	:	DECISION ON
PCT No.: PCT/US03/18326	:	
Int. Filing Date: 10 June 2003	:	PETITION UNDER
Priority Date: None	:	
Attorney Docket No.: 2765/189US	:	37 CFR 1.137(b)
For: WEFT-INSERTED ELASTIC ADHESIVE BANDAGE AND METHOD	:	

This decision is in response to applicants' submission filed 19 December 2005.

BACKGROUND

On 10 June 2003, applicants filed international application PCT/US03/18326 which designated the U.S. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 20 January 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 December 2005 (10 December 2005 being a Saturday).

On 19 December 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date, 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 19 December 2005.

As to item (2), applicant submitted the petition fee on 19 December 2005.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b).

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
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Robert D. Shedd
Thomson Licensing LLC
PO Box 5312
PRINCETON NJ 08543-5312

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OFFICE OF PETITIONS

In re Application of :
Jill MacDonald Boyce et al. :
Application No. 10/561,361 : DECISION ON PETITION
Filed: December 19, 2005 :
Attorney Docket No. PU030180 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (Notice) mailed, May 8, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days whichever was longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The application became abandoned on June 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,540, 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 2621 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

19 JAN 2006

Commissioner for Patents
United States Patent and Trademark Office
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In re Application of BUCHER
Application No.: 10/561,363
PCT No.: PCT/EP04/50355
Int. Filing: 24 March 2004
Priority Date: 25 March 2003
Attorney Docket No.: HOIB2.001APC
For: METHODOLOGIES FOR IMPROVING THE QUALITY OF MEAT, HEALTH STATUS OF ANIMALS AND IMPACT ON ENVIRONMENT

DECISION ON

PETITION TO REVIVE

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 19 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $300 has been provided. The required petition fee of $1500 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of the Notification of Missing Requirements indicating that the oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

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UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 1200
WASHINGTON, DC 20006

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JUL 08 2010

OFFICE OF PETITIONS

In re Application of
Mathias Franz, et al.
Application No. 10/561,376
Filed: March 7, 2007
Attorney Docket No. 39090-00050

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 27, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Dickinson Wright, PLLC has been revoked by the assignee of the patent application on May 27, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the new address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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DEC 1 0 2009

OFFICE OF PETITIONS

In re Application of :
Barenholz, et al. :
Application No. 10/561,394 : DECISION
Filed: 19 December, 2005 :
Attorney Docket No. BARENHOLZ 15 :

This is a decision on the petition filed on 4 September, 2009, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay .

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The two-month period for filing an appeal brief under 37 C.F.R. §41.37 (accompanied by the fee required by 37 C.F.R §41.20(b)(2)), runs from the date of this decision.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 25 February, 2009, with reply due absent an extension of time on or before 25 May, 2009.

On (Monday) 27 July, 2009, Petitioner filed a request and fee for extension of time and an amendment after final, which the Examiner refused to enter and Petitioner—as one registered to practice before the Office—knew was not as of right and not a proper reply[1] if it did not *prima facie* place the application in condition for allowance. On 28 August, 2009, the Examiner mailed an Advisory Action.

The application went abandoned by operation of law after midnight 25 July, 2009.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 4 September, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of a Notice of Appeal and fee (and what Petitioner termed "A Supplemental Amendment After Rejection") and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

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[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 1792 to await the filing of Petitioner's brief (with fee) and for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[4] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[5] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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10 JAN 2006

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
1109 MCKAY DRIVE, M/S-41SJ
SAN JOSE, CA 95131

In re Application of DEN OUDEN :
U.S. Application No.: 10/561,398 :
PCT Application No.: PCT/IB04/50054 :
Int. Filing Date: 27 January 2004 : DECISION
Priority Date Claimed: 29 January 2003 :
Attorney Docket No.: NL03 0102 US :
For: DATA COMMUNICATION USING :
CONSTANT TOTAL CURRENT :

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 19 December 2005.

BACKGROUND

On 27 January 2004, applicant filed international application PCT/IB04/50054, which claimed priority of an earlier European Patent Office application filed 29 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 12 August 2004. The thirty-month period for paying the basic national fee in the United States expired on 29 July 2005.

International application PCT/IB04/50054 became abandoned as to the United States for failure to timely pay the basic national fee.

On 19 December 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

18 JUN 2008

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NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

In re Application of DEN OUDEN :
U.S. Application No.: 10/561,398 :
PCT Application No.: PCT/IB2004/050054 : DECISION
Int. Filing Date: 27 January 2004 :
Priority Date Claimed: 29 January 2003 :
Attorney Docket No.: NL03 0102 US :
For: DATA COMMUNICATION USING :
CONSTANT TOTAL CURRENT

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 April 2008.

BACKGROUND

On 27 January 2004, applicant filed international application PCT/IB2004/050054, which claimed priority of an earlier European Patent Office application filed 29 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 12 August 2004. The thirty-month period for paying the basic national fee in the United States expired on 29 July 2005.

On 19 December 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 grantable petition under 37 CFR 1.137(b).

On 24 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 25 March 2007, international application PCT/IB2004/050054 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 17 April 2008, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 27 January 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 17 April 2008.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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23 JAN 2006

SCHWARTZ LAW FIRM, P.C.
6100 FAIRVIEW ROAD
SUITE 530
CHARLOTTE NC 28210

In re Application of	:	
SMYTH	:	
Application No.: 10/561,409	:	DECISION ON
PCT No.: PCT/US04/18082	:	
Int. Filing Date: 08 June 2004	:	PETITION UNDER
Priority Date: 09 June 2003	:	
Attorney Docket No.: 138/12US	:	37 CFR 1.137(b)
For: METHOD FOR MAKING A VEHICLE WHEEL	:	
FOR SUBSEQUENT IDENTIFICATION AND	:	
TRACKING	:	

This decision is in response to applicants' submission filed 16 December 2005.

BACKGROUND

On 08 June 2004, applicants filed international application PCT/US04/18082 which designated the U.S. and claimed a priority date of 09 June 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 23 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 09 December 2005.

On 16 December 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee, a declaration of the inventor, an assertion of small entity status, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 16 December 2005.

As to item (2), applicant submitted the petition fee on 16 December 2005.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

Mail Date: 05/19/2010

Applicant	: Anne Haaije De Boer	: DECISION ON REQUEST FOR
Patent Number	: 7617822	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/561,410	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/11/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **860** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
New York, NY 10112

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APR 10 2009

OFFICE OF PETITIONS

In re Application of :
Shinji NARA et al :
Application No. 10/561,415 : DECISION ON PETITION
Filed: December 19, 2005 :
Attorney Docket No. 00005.001281. :

This is a decision on the petition filed on November 3, 2008, requesting under 37 CFR 1.182, that the acceptance of the terminal disclaimer filed May 6, 2008 be withdrawn.

The petition is **GRANTED**.

Petitioners assert that, as the claims for which the aforementioned terminal disclaimer was originally proffered have now been amended, there is no further need for the disclaimer to remain recorded against this application. The undersigned has consulted with the examiner in charge of this application, to determine his opinion on the obviousness–type double patenting rejection, and has found that the examiner concurs with petitioners' assertion. Specifically, petitioner has a required carbonyl group present in the amended claims. The examiner has indicated that the carbonyl group renders the terminal disclaimer no longer necessary. Accordingly, the terminal disclaimer is withdrawn. USPTO records for the above-identified application have been changed consistent with this decision.

The 37 CFR 1.182 required petitions fee of $400.00 has been charged to petitioner's deposit account number 06-1205.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

1 1 JUN 2007

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Kenneth F. Florek
Hedman & Costigan
1185 Avenue of the Americas
New York NY 10036-2646

In re Application of	:	
TVOUA et al.		
Application No.: 10/561,429	:	DECISION
PCT No.: PCT/IL2005/001117	:	
Int. Filing Date: 26 October 2005	:	
Priority Date: 27 October 2004	:	
Attorney Docket No.: 3521/3	:	
For: PERSONALLY ADJUSTABLE FOOTWEAR	:	

This decision is in response to applicants' "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371", which has properly been treated as a petition under 37 CFR 1.181, filed in the United States Patent and Trademark Office (USPTO) on 23 February 2007. No petition fee is required.

BACKGROUND

On 26 October 2005, applicants filed international application PCT/IL2005/001117, which designated the United States and claimed a priority date of 27 October 2004. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 May 2006. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 April 2007.

On 12 August 2005, applicants filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an assertion of small entity status.

On 18 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 23 February 2007, applicants filed the instant "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371", 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 executed on 06 December 2005.

DISCUSSION

Applicants have provided sufficient evidence to establish that on 19 December 2005 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 19 December 2005 and which itemizes a "Declaration" and identifies the above-captioned docket number, applicant, and title. Further, practitioner states that the copy of the declaration filed 23 February 2007 and executed on 06 December 2005 is a copy of the declaration originally filed 19 December 2005. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 23 February 2007 and executed on 06 December 2005 may properly be accepted as originally received in the USPTO on 19 December 2005. The NOTIFICATION OF MISSING REQUIREMENTS mailed 18 January 2007 is hereby vacated.

The declaration filed 19 December 2005 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

The NOTIFICATION OF MISSING REQUIREMENTS mailed 18 January 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
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Takashi Udagawa	: DECISION ON REQUEST FOR
Patent Number	: 7598593	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/561,438	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **886** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BACON & THOMAS, PLLC
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ALEXANDRIA, VA 22314-1176

Mail Date: 04/22/2010

Applicant	: Luc Bouwens	: DECISION ON REQUEST FOR
Patent Number	: 7604991	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/561,449	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **431** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
SUITE #1600
PORTLAND, OR 97204-2988

Mail Date: 04/20/2010

Applicant	: Dennis Drayna	: DECISION ON REQUEST FOR
Patent Number	: 7579453	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/561,487	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **574** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/07/10

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction for Appl. No.: 10561487 Patent No.: 7579453

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

GARY B. NICKOL, PH.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1646
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
SUITE #1600
PORTLAND, OR 97204-2988

Mail Date: 05/17/2010

Applicant : Dennis Drayna
Patent Number : 7579453
Issue Date : 08/25/2009
Application No: 10/561,487
Filed : 12/19/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **602** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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SAUL EWING LLP (PHILADELPHIA)
ATTN: PATENT DOCKET CLERK
2 NORTH SECOND ST.
HARRISBURG PA 17101

MAILED

JAN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Fitzgerald et al.	:	
Application No. 10/561,490	:	DECISION ON PETITION
Filed: December 20, 2005	:	
Attorney Docket No. 356952.00039-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed May 28, 2008. A three-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, this application became abandoned on November 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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.

The file is now being forwarded to Technology Center 2163 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Mark D. Simpson
Saul Ewing LLP, Centre Square West
1500 Market Street, 38th Floor
Phila. PA 19102

07 JUN 2006

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SIEMENS SCHWEIZ, AG
245 ALBISRIEDERSTRASSE
I-44 INTELLECTUAL PROPERTY RAUM
CH-8047 ZURICH, 08047

In re Application of BILGER et al. Application No.: 10/561,493 PCT No.: PCT/DE03/02750 Int. Filing Date: 18 August 2003 Priority Date: 06 September 2002 Attorney's Docket No.: 2002P11311WOUS For: DISTRIBUTION OF PRINTER PAPER	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's 03 November 2005 "Petition to Accept Application and Assignment of Filing Date". Applicant, in effect, requests acceptance of a copy of international application PCT/DE03/02750 for filing in lieu of the original application allegedly filed United States Patent and Trademark Office (USPTO) on 25 February 2005. The petition is treated as a petition under 37 CFR §1.181. No petition fee is required.

BACKGROUND

On 18 August 2003, applicant filed the above-identified international application which claimed a priority date of a German application filed on 06 September 2002. The thirty month period for entry into the U.S. national stage expired at midnight on 06 March 2005.

On 25 February 2005, applicant allegedly filed the international application PCT/DE03/02750 in the USPTO. These papers were not assigned a U.S. serial number. Upon inquiry to the USPTO regarding the status of the application, counsel was advised that the application papers could not be located.

On 03 November 2005, applicant refiled copies of the U.S. application as allegedly filed 25 February 2005. Applicant, in effect, requests acceptance of the copy of the application in lieu of the originals allegedly filed on 25 February 2005, according a filing date of 25 February 2005.

DISCUSSION

Applicant requests that the apparent copy of the international application filed with the petition be accepted as a replacement for the missing original papers with a receipt date of 25 February 2005 being accorded thereto based on the alleged delivery of the originals to the

USPTO on 25 February 2005.

The evidence submitted by applicant in the petition included a copy of the application including specification, claims and drawings; a copy of the DHL mailing label receipt bearing no."454 7920 591", and a copy of the tracking detail regarding its delivery to the USPTO.

The DHL mailing label (454 7920 591) bears an incorrect delivery address for hand delivery to the USPTO for 25 February 2005. The DHL mailing label indicates an incorrect delivery address as: 2001 South Clarke Place, Customer Window, Box, Cristal (sp) Plaza Two, Lobby, Room1B03, Arlington, VA. This address was no longer available as a delivery address for the USPTO as of midnight January 13, 2005.

As of January 14, 2005, the USPTO Customer Service Window for hand-delivery of patent-related correspondence was relocated to: Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314. Notice of this relocation was posted in the January 2005 issue of the PCT Newsletter published by the World Intellectual Property Organization (WIPO) (copy enclosed.) and in the USPTO's Official Gazette 01 February 2005 (copy enclosed).

A close look at the Tracking Results Detail for #"454 7920 591" indicates contradictory delivery information: On "2/25/2005 2:04 pm Shipment delivered"; however, on "2/28/3005 7:34 pm **Recipient refused delivery**". (Emphasis added.) This is not evidence of delivery of the application papers to the USPTO on 25 February 2005, to an address that was no longer in use.

A review of USPTO records reveals that such attempted delivery was not received in the Office. Since the application was not delivered to the USPTO and applicant has not provided proof of such delivery in accord with MPEP §500 et. seq., the copy of the application delivered to the USPTO cannot be accorded a filing date of 25 February 2005.

The international application PCT/DE03/02750 was abandoned at midnight 06 March 2005 for failure to enter the U.S. national stage by the thirty month period. The filing of the application papers on 03 November 2005 does not revive the international application.

Options

Applicant is advised of his options to file a petition to revive his abandoned application under 37 CFR 1.137(a) or (b). The appropriate forms and relevant MPEP section 711.03(c) can be located at www.upsto.gov. Applicant is reminded that the filing of any petition under the unintentional standard cannot be intentionally delayed. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay was unintentional. A statement that the delay was unintentional is not appropriate if the petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

CONCLUSION

The petition to accord a filing date of 25 February 2005 to the application papers filed on 03 November 2005 is **DISMISSED without prejudice**.

International application PCT/DE03/02750 is ABANDONED for failure to enter the U.S. national stage by the thirty month period.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the

Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
Office PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

Encl.: PCT Newsletter, Jan. 2005, p.5
USPTO Official Gazette, 01 Feb. 2005

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11 JUL 2006

SIEMENS SCHWEIZ, AG
245 ALBISRIEDERSTRASSE
I-44 INTELLECTUAL PROPERTY RAUM
CH-8047 ZURICH, 08047

In re Application of
BILGER et al.
Application No.: 10/561,493
Filing Date: 03 November 2005
Attorney's Docket No.: 2002P11311WOUS
For: DISTRIBUTION OF PRINTER PAPER

DECISION ON
PETITION
UNDER 37 CFR 1.137(b)

This application is before the PCT Legal Office for consideration of applicant's petition to revive under 37 CFR 1.137(b) filed on 29 June 2006.

On 18 August 2003, applicant filed international application PCT/DE03/02750. The deadline for entry into national stage expired thirty months after the priority date of 06 September 2002 or by midnight on 06 March 2005. Thereafter, the application went abandoned for failure to enter national stage in the U.S. before the expiration of the thirty month period.

On 03 November 2005, applicant filed a petition under 37 CFR 1.181 requesting that a copy of the application be accepted in lieu of the originally filed application allegedly filed on 25 February 2005. The application was assigned serial no. 10/561,493. A decision dismissing the petition was mailed on 07 June 2006 indicating that applicant had mailed the application papers to a USPTO address that was no longer available as a delivery address as of midnight January 13, 2005.

On 20 June 2006, applicant filed the instant petition to revive which was accompanied by a request for filing a continuation of an international application, accompanied by an Application Data Sheet, which indicated that the application was a continuation of PCT/DE03/02750 filed on 18 August 2003.

DISCUSSION

The transmittal letter filed on 03 November 2005 did not identify the application as a national stage application being filed under 35 U.S.C. 371. Applicant requests that the application be considered filed under 35 U.S.C. 111(a). Accordingly, the original papers deposited on 03 November 2005 will be accepted as a filing under 35 U.S.C. 111(a). Since the application is deemed to have been filed under 35 U.S.C. 111(a), international application PCT/DE03/02750 became abandoned as to the United States of America after midnight on 06 March 2005 for failure to pay the basic national fee.

On 29 June 2006, applicant filed a petition under 37 CFR 1.137(b) to revive international application PCT/DE03/02750 as to the United States abandoned under 35 U.S.C. 371(d). The filing of the present continuing application under 35 U.S.C. 111(a) is accepted as the appropriate response under 37 CFR 1.137(b). See MPEP § 711.03(c).

All of the requirements of 37 CFR 1.137(b) for revival have been submitted. 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" meets the requirements of 37 CFR 1.137(b)(3).

International application PCT/DE03/02750 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application 10/561,493.

The specification and claims filed on 03 November 2005 complete the requirements for a filing date under 35 U.S.C. 111(a). Accordingly, the application will be accorded a filing date of 03 November 2005.

Applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 10/561,493) and the international application (PCT/DE03/02750) designating the United States were copending on 03 November 2005.

CONCLUSION

Applicant's petition to revive under 37 CFR 1.137(b) is **GRANTED.**

This application is being forwarded to Office of Initial Patent Examination for further processing as an application filed under 35 U.S.C. 111(a), having a filing date of 03 November 2005. The application will then be examined in due course.

Cynthia M. Kratz
Attorney Advisor
Office PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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THOMPSON HINE L.L.P.
Intellectual Property Group
P.O. BOX 8801
DAYTON, OH 45401-8801

Mail Date: 04/27/2010

Applicant	: Robert J. Schuller	: DECISION ON REQUEST FOR
Patent Number	: 7587335	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/561,497	: OF WYETH
Filed	: 12/19/2005	:
		:

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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07 JUL 2006

Marvin J. Spivak
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of
OGURA, et al.
Application No.: 10/561,530 (10/472,483
PCT No.: PCT/JP01/08535
Int. Filing Date: 28 September 2001
Priority Date: 29 March 2001
Atty Docket No.: 241082US2XPCT
For: NEGATIVE RESISTANCE FIELD-EFFECT ELEMENT

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition Under 37 C.F.R. 1.181 to Grant a Filing Date" filed 14 December 2005 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 28 September 2001, applicant filed international application PCT/JP01/08535, which claimed a priority date of 29 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 October 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, 29 September 2003.

On 14 December 2005, applicant filed the present petition indicating that while a U.S. National stage entry had been filed with the USPTO on 29 September 2003 (as evidenced by the postcard returned by the USPTO with a serial number of 10/472,483), applicant was informed during a phone call with the PCT Help Desk that the USPTO had no record of the filing. Applicant's petition was accompanied by copies of the papers allegedly filed 29 September 2003.

DISCUSSION

Applicant has provided a legible copy of the receipt postcard which shows a USPTO date stamp, "Rec'd PCT/PTO 29 SEP 2003" and clearly identifies:

13 pgs. Specification, 3 Claims (English Translation)
Combined Declaration, Petition & Power of Attorney (4 pages)
Application Data Sheet
Notice of Priority

Dep. Acct. Order Form
Credit Card Payment Form for $900.00
Drawings (3 Sheets)
PCT Transmittal Letter
PCT/IB/304
International Preliminary Examination Report
Information Disclosure Statement
international Search Report
Declaration of Takeyoshi SUGAYA

as well as listing the inventors, international application number and attorney docket number. The evidence is sufficient to establish that the National stage papers were received in the USPTO on 29 September 2003. Applicant has certified that the copies filed with the present petition are true and complete copies of the papers originally filed on 29 September 2003. As such, it is proper to **GRANT** applicant's petition at this time.

As the USPTO has no record of application serial number 10/472,483 the serial number identified above (10/561,530) will be considered the U.S. National stage entry for international application PCT/JP01/08535. The fees paid in application 10/472,483 will be transferred to the serial number 10/561,530 and applicant should continue to use this number in all future correspondence with the USPTO.

Regarding the declaration of inventor Sugaya, MPEP section 605.04 states:

When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. However, applicants are strongly encouraged to use an application data sheet such that any patent to issue will reflect the correct spelling of the inventor's name. Without an application data sheet with the corrected spelling, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

Applicant's have advised the Office of the error in the international application, the inventor has confirmed the correct spelling of his name and applicant has provided an application data sheet with the correct spelling of the inventor's name. In addition, the name is correctly spelled on the combined declaration and power of attorney.

An examination of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 29 September 2003.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The application will be given an international filing date of 28 September 2001 under 35 U.S.C. 363 and a date of **29 September 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely 1) the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) indicating a 371 date as detailed above.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

20 NOV 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Marvin J. Spivak
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of :
OGURA, et al. :
Application No.: 10/561,530 :
PCT No.: PCT/JP01/08535 : DECISION ON PETITION
Int. Filing Date: 28 September 2001 :
Priority Date: 29 March 2001 :
Atty. Docket No.: 24108US2XPCT :
For: NEGATIVE RESISTENCE FIELD-EFFECT ELEMENT :

This decision is in response to applicant's request for refund filed 05 October 2006 in the United States Patent and Trademark Office (USPTO).

On 07 July 2006, applicant was mailed a decision granting applicant's petition under 37 CFR 1.181 to grant a filing date for the present national stage application.

On 05 October 2006, applicant filed the present petition indicating that a petition fee of $130.00 had been charged to deposit account 15-0030 for the petition filed 14 December 2005.

Applicant is correct that there is no petition fee for a petition under 37 CFR 1.181 dealing with a the granting of a filing date based on a return receipt postcard . Therefore a refunding of the $130.00 charged on 17 August 2006 is appropriate.

Applicant's request for refund is **GRANTED**.

$130.00 will be refunded to deposit account number 15-0030 as requested.

This application is being returned to the United States Designated/Elected Office for continued processing.

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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12 JAN 2005

Phillips Electronics North American Corporation
Intellectual Property & Standards
1109 McKay Drive, M/S41-SJ
San Jose, CA 95131

In re Application of :
DEKKER et al. :
Application No.: 10/561,532 : DECISION ON PETITION
PCT No.: PCT/IB03/04925 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 04 November 2003 :
Priority Date: 08 November 2002 :
Attorney Docket No.: NL1021153US :
For: FLEXIBLE DEVICE AND METHOD OF :
MANUFACTURING THE SAME

The petition to revive under 37 CFR 1.137(b) filed 19 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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INTELLECTUAL PROPERTY & STANDARDS
370 W. TRIMBLE ROAD MS 91/MG
SAN JOSE CA 95131

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FEB 2 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Dekker et al.	:	
Application No. 10/561,532	:	DECISION ON PETITION
Filed: December 19, 2005	:	
Attorney Docket No. NL02 1153 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $2230.00 extension of time fee submitted on January 7, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Further, the $1540.00 was submitted twice. Accordingly, $1540.00 will also be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2815 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

Mail Date: 04/21/2010

Applicant	: Hans Oigarden	: DECISION ON REQUEST FOR
Patent Number	: 7585131	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/561,554	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **399** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Vesa Varjonen	: DECISION ON REQUEST FOR
Patent Number	: 7588369	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/561,564	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **694** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

Mail Date: 05/18/2010

Applicant : Vesa Varjonen
Patent Number : 7588369
Issue Date : 09/15/2009
Application No: 10/561,564
Filed : 04/24/2006

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **810** 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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12 JAN 2005

Peter Zawilski
Philips Electronics North America Corporation
Intellectual Property & Standards
1109 McKay Drive, M/S41-SJ
San Jose, California 95131

In re Application of
BELLAICHE
Application No.: 10/561,577
PCT No.: PCT/IB03/04900
Int. Filing Date: 31 October 2003
Priority Date: 06 November 2002
Atty. Docket No.: FR02 0116 US
For: DEVICE COMPRISING CIRCUIT ELEMENTS CONNECTED BY BONDING BUMP STRUCTURE

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 19 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for the preparation and mailing of a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the 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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13 JAN 2006

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
1109 MCKAY DRIVE, M/S-41SJ
SAN JOSE, CA 95131

In re Application of KADNER :
U.S. Application No.: 10/561,578 :
PCT Application No.: PCT/IB04/50705 :
Int. Filing Date: 14 May 2004 : DECISION
Priority Date Claimed: 27 May 2003 :
Attorney Docket No.: DE03 0187 US :
For: PHASE DETECTOR AND METHOD OF PHASE DETECTION :

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 19 December 2005.

BACKGROUND

On 14 May 2004, applicant filed international application PCT/IB04/50705, which claimed priority of an earlier European Patent Office application filed 27 May 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 09 December 2004. The thirty-month period for paying the basic national fee in the United States expired on 27 November 2005.

International application PCT/IB04/50705 became abandoned as to the United States for failure to timely pay the basic national fee.

On 19 December 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 14 May 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 19 December 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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23 JAN 2006

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
1109 MCKAY DRIVE, M/S-41SJ
SAN JOSE CA 95131

In re Application of	:	
JACQUEMIN	:	
Application No.: 10/561,579	:	DECISION ON
PCT No.: PCT/IB03/04883	:	
Int. Filing Date: 31 October 2003	:	PETITION UNDER
Priority Date: 06 November 2002	:	
Attorney Docket No.: FR02 0118 US	:	37 CFR 1.137(b)
For: METHOD OF ADHESION MEASUREMENT	:	
AT THE INTERFACE BETWEEN LAYERS	:	

This decision is in response to applicants' submission filed 19 December 2005.

BACKGROUND

On 31 October 2003, applicants filed international application PCT/IB03/04883 which designated the U.S. and claimed a priority date of 06 November 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 May 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 May 2005.

On 19 December 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 19 December 2005.

As to item (2), applicant submitted the petition fee on 19 December 2005.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date. (Although the Transmittal Letter filed 19 December 2005 lists an oath or declaration of the inventors as having been filed, such an oath or declaration does not appear in the application file.)

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

12 FEB 2008

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NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

In re Application of	:	
JACQUEMIN	:	
Application No.: 10/561,579	:	DECISION ON
PCT No.: PCT/IB03/04883	:	
Int. Filing Date: 31 October 2003	:	PETITION UNDER
Priority Date: 06 November 2002	:	
Attorney Docket No.: FR02 0118 US	:	37 CFR 1.137(b)
For: METHOD OF ADHESION MEASUREMENT	:	
AT THE INTERFACE BETWEEN LAYERS	:	

This decision is in response to applicant's submission filed 17 January 2008.

BACKGROUND

On 31 October 2003, applicant filed international application PCT/IB03/04883 which designated the U.S. and claimed a priority date of 06 November 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 May 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 May 2005.

On 19 December 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee and a petition under 37 CFR 1.137(b) to revive the application.

On 23 January 2006, a decision was mailed granting applicant's petition to revive under 37 CFR 1.137(b).

On 29 January 2007, a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) was mailed indicating, *inter alia*, that a declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required.

On 30 November 2007, a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) was mailed indicating that the application was abandoned as to the United States of America for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 29 January 2007 within the time period set therein.

On 17 January 2008, applicant filed the instant petition under 37 CFR 1.137(b) and a declaration of the inventor.

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 a declaration of the inventor on 17 January 2008.

As to item (2), applicant submitted the petition fee on 17 January 2008.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

The declaration of the inventor filed 17 January 2008 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

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Facsimile: (571) 273-0459

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

MAR 22 2010

OFFICE OF PETITIONS

In re Application of :
Tsuru et al. :
Application No. 10/561,595 : ON APPLICATION FOR
Filed: December 20, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. 09812.0135 :
Title: Method and Apparatus For :
Determining A Quantization :
Scale Of Encoded Data :

This is a decision on the "NOTICE OF POSSIBLE PTO ERROR IN THE DETERMINATION OF A PATENT TERM ADJUSTMENT AND REQUEST FOR CLARIFICATION OF CALCULATION," filed September 11, 2009. This petition is properly treated under 37 CFR §1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is six hundred forty-one (641) days, not three hundred thirty-eight (338) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

The request for review of the patent term adjustment is **Dismissed**.

On June 23, 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 the patent term adjustment to date is 338 days. Applicants dispute the calculation and argue that the application is entitled to an overall adjustment of 641 days. Applicants, however, do not dispute any particular adjustment or reduction.

Nevertheless, the calculation of adjustment has been carefully reviewed, and no error has been found.

A 369 day adjustment was made for failure by the Office to mail at least one of the notifications under 35 U.S.C. 132 not later than fourteen months after the date on which the application

fulfilled the requirements under 35 U.S.C. 371, pursuant to § 1.702(a)(1). A non-final Office action was mailed on December 23, 2008, which is 14 months and 369 days after the application fulfilled the requirements of 35 U.S.C. 371 on October 20, 2006.

Further review of the record shows that a 31-day reduction was properly taken pursuant to 37 CFR 1.704(b). 37 CFR §1.704(b) provides:

> 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 PTA was properly reduced by 31 days, the number of days in excess of three months that was taken to reply to the December 23, 2008 Office action.

As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is three hundred thirty-eight (338) days.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 06-0916. No additional fees are required.

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 matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant, at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petition Attorney
Office of Petitions

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failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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21 JUN 2007

ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

In re Application of KOCHI, Toshifumi et al. Application No.: 10/561,614 PCT No.: PCT/JP04/09713 Int. Filing Date: 08 July 2004 Priority Date: 10 July 2003 Attorney's Docket No.: 107348-00547 For: Engine-Driven Generator	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed 28 February 2007, to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Toshifumi Kochi. The petition under 37 CFR 1.47(a) is DISMISSED.

BACKGROUND

On 08 July 2004, applicants filed international application PCT/JP04/09713, claiming a priority date of 10 July 2003. The thirty-month for paying the basic national fee in the United States expired at midnight on 10 January 2006.

On 20 December 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. An oath or declaration was not submitted.

On 28 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 and a surcharge for filing the oath and declaration later than 30 months from the priority date were required.

On 28 February 2007, applicants filed the present petition accompanied by the requisite petition fee, a one-month extension of time, a declaration executed on behalf of non-signing inventor Toshifumi Kochi, the surcharge for late filing of the declaration and a statement by Dr. Soichiro Nomura indicating the health condition of non-signing inventor Toshifumi Kochi.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) a statement of the last known address of the missing inventor, (3) an oath or declaration by each applicant on his or her own behalf and on behalf of the non-signing joint inventor and, (4) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort.

As to items (1) and (2), applicants have submitted the correct petition fee of $200.00 under 37 CFR 1.17(g) and a statement of the last known address of the non-signing inventor.

With regard to item (3), applicants have filed a declaration executed by the other cooperating inventors and containing an unsigned signature block for the non-signing inventor. This declaration complies with 37 CFR 1.497(a)-(b) and is accepted. Hence, item (3) is satisfied.

With regard to item (4), applicants have not provided any evidence that non-signing inventor Toshifumi Kochi was presented with a copy of the application papers (specification, claims, drawings and oath or declaration). 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, 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. Therefore, item (4) has not been satisfied.

Furthermore, MPEP 409.03(d)(I) states that:

> ...the fact that an inventor is hospitalized and/or 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.

Here, applicants' evidence that non-signing inventor Toshifumi Kochi cannot be reached after diligent effort is based on the declaration of Dr. Soichiro Nomura who describes non-signing inventor Toshifumi Kochi requiring "rest for twelve weeks from December 25, 2006." In view of MPEP 409.03(d)(I), it is submitted that the provided evidence "is not an acceptable reason for filing under 37 CFR 1.47." As shown above, applicants may file a petition under 37 CFR 1.43 if the conditions presented in MPEP §409.02 are satisfied.

As such, the instant petition filed under 37 CFR 1.47(a) on 28 February 2007, to permit the applicants to file the above-captioned application on behalf of the non-signing inventor Toshifumi Kochi, is inappropriate.

CONCLUSION

Applicant's petition to permit the applicants to file the above-captioned application on behalf of the non-signing inventor Toshifumi Kochi is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Leonard Smith
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Stefan Staicovici
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UNITED STATES PATENT AND TRADEMARK OFFICE

0 7 DEC 2007

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ARENT FOX LLP
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SUITE 400
WASHINGTON DC 20036

In re Application of:	:	
KOCHI, Toshifumi, et al.	:	DECISION ON RENEWED
U.S. Application No.: 10/561,614	:	PETITION
PCT No.: PCT/JP2004/009713	:	(37 CFR 1.47(a))
Int'l Filing Date: 08 July 2004	:	
Priority Date: 10 July 2003	:	
Atty Docket No.: 107348-00547	:	
For: ENGINE-DRIVEN GENERATOR	:	

In a decision mailed by this Office on 21 June 2007, applicants' petition under 37 CFR 1.47(a) for acceptance of the application without the signature of co-inventor Toshifumi KOCHI was dismissed without prejudice for failure to satisfy the requirements of a grantable petition.

On 21 August 2007, applicants filed a response to the 21 June 2007 decision; the response is treated herein as a renewed petition.

Applicants' 21 August 2007 submission includes a declaration executed by the previously non-signing inventor Toshifumi KOCHI. Accordingly, the petition under 37 CFR 1.47(a) requesting acceptance of the declaration without the signature of Toshifumi KOCHI is **DISMISSED AS MOOT**.

However, a review of the declaration filed on 21 August 2007 reveals that this declaration does not comply with 37 CFR 1.497. Specifically, the declaration fails to name all of the inventors herein (the sixth inventor, Takeshi MAEDA, is not listed on the declaration).

The submission of the executed but non-compliant declaration is considered a defective response to the previous decision. Accordingly, applicants have **ONE (1) MONTH** from the mail date of this decision to submit a revised declaration executed by previously non-signing inventor Toshifumi KOCHI that satisfies the requirements of 37 CFR 1.497.

Extensions of time are **not** available under 37 CFR 1.136(a).

Failure to file a proper and timely response will result in abandonment of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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11 APR 2008

ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

In re Application of: KOCHI, Toshifumi, et al.	:	
U.S. Application No.: 10/561,614	:	DECISION ON PETITION
PCT No.: PCT/JP2004/009713	:	(37 CFR 1.137(b))
Int'l Filing Date: 08 July 2004	:	
Priority Date: 10 July 2003	:	
Atty Docket No.: 107348-00547	:	
For: ENGINE-DRIVEN GENERATOR	:	

The petition for revival under 37 CFR 1.137(b) filed 05 March 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 08 January 2008 based on applicants' failure to file a proper response to the "Decision On renewed petition (37 CFR 1.47(a))" mailed by this Office on 07 December 2007.

The present petition for revival was accompanied by payment of the required petition fee and the "required reply" in the form of a revised declaration executed by previously non-signing inventor Toshifumi KOCHI that identifies all the inventors and satisfies the requirements of 37 CFR 1.497. 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 the requirements of 37 CFR 1.137(b)(3).

Based on the above, the requirements of 37 CFR 1.137(b) have been satisfied. Accordingly, the request to revive the international application with respect to the United States is appropriately granted.

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 05 March 2008.

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ISIS PHARMACEUTICALS, INC
1896 RUTHERFORD ROAD
CARLBAD, CA 92008

COPY MAILED

JUN 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Brenda F. Baker	:	DECISION ON PETITION
Application No. 10/561,618	:	TO WITHDRAW
Filed: May 5, 2006	:	FROM RECORD
Attorney Docket No. CORE0005USA	:	

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 13, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to practitioners associated with Isis Pharmaceuticals, Inc., has been revoked by the assignee of the patent application on July 12, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

UNITED STATES PATENT AND TRADEMARK OFFICE

24 JAN 2006

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
Intellectual Property and Standards
1109 McKay Drive, M/S-41SJ
San Jose, CA 95131

In re Application of :
TERECHKO *et al* :
U.S. Application No.: 10/561,625 :
PCT No.: PCT/IB2003/005611 :
Int. Filing Date: 03 December 2003 :
Priority Date: 04 December 2003 :
Attorney Docket No.: NL02 1505 US :
For: SOFTWARE-BASED CONTROL OF MICROPROCESSOR POWER DISSIPATION :

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 19 December 2005 is hereby **GRANTED** as follows:

The basic national fee and petition fee have been paid. Applicants' statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was provided. The surcharge fee of $130.00 was charged to Deposit Account No. 14-1270 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 03 December 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 19 December 2005.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

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12 JAN 2005

Peter Zawiski
Philips Electronics North America Corporation
Intellectual Property & Standards
1109 McKay Drive, M/S41-SJ
San Jose, CA 95131

In re Application of
TERECHKO, et al.
Application No.: 10/561,627
PCT No.: PCT/IB03/05608
Int. Filing Date: 03 December 2003
Priority Date: 04 December 2002
Atty. Docket No.: NL02 1504 US
For: REGISTER FILE GATHERING TO REDUCE MICROPROCESSOR POWER DISSIPATION

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 19 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the above-identified U.S. national stage application from the 30 months deadline until the filing of a grantable petition under 37 C.F.R. § 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 03 December 2003 under 35 U.S.C. 363 and will be given a date of **19 December 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.

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11 JUN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHICAGO IL 60606

In re Application of	:	DECISION ON
MATSUI	:	
Application No.: 10/561,629	:	PETITION UNDER
PCT No.: PCT/JP2004/008710	:	
Int. Filing Date: 21 June 2004	:	37 CFR § 1.47(b)
Priority Date: 20 June 2003	:	
Attorney Docket No.: 19036/40796	:	
For: OPHTHALMIC COMPOSITION	:	
	:	

This is a decision on applicant's petition under 37 CFR 1.47(b) and petition under 37 CFR 1.183 filed in the United States Patent and Trademark Office (USPTO) on 07 February 2007 and applicant's petition under 37 CFR 1.182 filed in the USPTO on 16 March 2007.

BACKGROUND

On 21 June 2004, applicant filed international application PCT/JP2004/008710, which designated the US and claimed a priority date of 20 June 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 29 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 20 December 2005.

On 20 December 2005, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 06 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor 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 reply.

On 07 February 2007, applicant submitted a petition under 37 CFR 1.47(b) and a petition under 37 CFR 1.183. The petition was accompanied by, *inter alia*, a petition/fee for a five month extension of time, the surcharge under 37 CFR 1.492(h), a declaration of facts by Madoka Yamashita, and a memorandum of law by Tadato Fujiwara.

On 16 March 2007, applicant submitted a petition under 37 CFR 1.182.

DISCUSSION

Petition Under 37 CFR 1.47(b)

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1) and (6) have been met.

Item (2) has not been met. The declaration of facts by Madoka Yamashita has been considered. As noted in MPEP § 409.03(d), the statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Here, it does not appear that Madoka Yamashita has first-hand knowledge of either the hand-delivery of the application papers to Ms. Matsui or the oral refusal. Regarding the delivery of the application papers, to establish a refusal to sign, it is required that the inventor be presented with the application papers (specification, including claims, drawings, and oath or declaration). See MPEP 409.03(d). "It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956)." MPEP 409.03(d). Regarding the oral refusal of Ms. Matsui, MPEP § 409.03(d) states in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

No firsthand statement of facts by the person to whom the oral refusal was made has been provided. The copies of e-mails and mail labels have been considered to the extent possible without translations having been provided.

Item (3) has not been met. See "Petition Under 37 CFR 1.183" below.

Item (4) has not been met. An oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor has not been provided.

Item (5) has not been met. A copy and a translation of an assignment for Japanese patent application number 2003-176965 has been provided. However, it is not clear that the invention

of that application and the invention of the present application are the same invention. *Cf. In Re Gray*, 115 USPQ 80 (Comm'r Pat. 1956) (An assignment of an application and any "reissue, division, or continuation of said application" does not itself establish an assignment of a continuation-in-part application.) See MPEP 409.03(f).

Petition Under 37 CFR 1.183

The petition under 37 CFR 1.183 requests suspension of the requirement of 37 CFR 1.47(b) that the non-signing inventor's last known address be provided. Waiver is requested in view of the Act on the Protection of Personal Information in Japan which went into efffect on May 30, 2003.

The petition fee has been paid. The memorandum of law by Tadato Fujiwara has been considered but is not sufficient. Even without translations, it appears that the address that appears on the published international application for Yuka Matsui is her current address (see, e.g., the untranslated letter to Ms. Matsui dated 23 August 2006 included with the submission of 07 February 2007.) It is not clear why the assignee would be prevented from providing publicly available information. Also, the memorandum by Tadato Fujiwara, states that the law prohibits "information on any individual alive, whereby a specific individual can be identified on the basis of descriptions included in said information". However, this would seem to preclude identifying the inventor by name, which the memorandum does not argue is prohibited. Additionally, if applicant's representative in the U.S. were to obtain the last mailing address of Ms. Matsui from someplace or someone other than the assignee, then it would seem that the law of Japan would not be violated. Further still, the violation would seem to be the assignee providing the information to petitioner rather than petitioner providing the information to the USPTO. Finally, it is suggested that a translation of the relevant portion of the law be provided in any renewed petition under 37 CFR 1.183.

Petition Under 37 CFR 1.182

The petition under 37 CFR 1.182 requests that the submission filed 16 March 2007 be used as a substitute for the submission filed 07 February 2007 because the submission filed 07 February 2007 includes personal information about Ms. Matsui that is prohibited from being disclosed by Japanese privacy law.

The proper procedure to expunge information submitted in an application is a petition under 37 CFR 1.59(b). Accordingly, the petition under 37 CFR 1.182 is inappropriate. The petition fee has been credited to Deposit Account 13-2855.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

For the above reasons, applicant's petition under 37 CFR 1.183 is **DISMISSED** without prejudice.

For the above reasons, applicant's petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b) [and/or 37 CFR 1.183]". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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Repln. Ref: 06/11/2007 SBASHEIR 0000485100
DA#:132855 Name/Number:10561629
FC: 9204 $400.00 CR

Adjustment date: 06/11/2007 SBASHEIR
03/19/2007 HGUTEMA1 00000026 10561629
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In re Application of	:	DECISION ON
MATSUI	:	
Application No.: 10/561,629	:	PETITION UNDER
PCT No.: PCT/JP2004/008710	:	
Int. Filing Date: 21 June 2004	:	37 CFR § 1.47(b)
Priority Date: 20 June 2003	:	
Attorney Docket No.: 19036/40796	:	
For: OPHTHALMIC COMPOSITION	:	
	:	

This is a decision on applicant's renewed petition under 37 CFR 1.47(b) and applicant's petition under 37 CFR 1.59(b), both filed in the United States Patent and Trademark Office (USPTO) on 09 October 2007.

BACKGROUND

On 21 June 2004, applicant filed international application PCT/JP2004/008710, which designated the US and claimed a priority date of 20 June 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 29 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 20 December 2005.

On 20 December 2005, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 06 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor 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 reply.

On 07 February 2007, applicant submitted a petition under 37 CFR 1.47(b) and a petition under 37 CFR 1.183. The petitions were accompanied by, *inter alia*, a petition/fee for a five month extension of time, the surcharge under 37 CFR 1.492(h), a declaration of facts by Madoka Yamashita, and a memorandum of law by Tadato Fujiwara.

On 16 March 2007, applicant submitted a petition under 37 CFR 1.182.

On 11 June 2007, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.47(b), applicant's petition under 37 CFR 1.183, and applicant's petition under 37 CFR 1.182.

On 09 October 2007, applicants filed the instant renewed petition under 37 CFR 1.47(b) and the petition under 37 CFR 1.59(b). The petition under 37 CFR 1.47(b) was accompanied by, *inter alia*, a declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, a statement of facts by Naoka Harada, a statement of facts by Yasuyo Yamaguchi, a statement of facts by Naonori Murakami, an English translation of the priority document for the instant application–Japanese Application No. 2003-176965, a chart showing support in the English translation of the priority document for the claims in the instant application, a copy of an oath signed by nonsigning inventor Yuka Matsui dated 16 April 2001 and an English translation thereof, and a copy of "Regulations for Employee's Invention" and an English translation thereof.

DISCUSSION

Petition Under 37 CFR 1.47(b)

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

As noted in the decision mailed 09 October 2007, items (1) and (6) have been met.

Items (2), (3), and (4) have now been met as well.

Item (5) has not been met. The chart showing support in the English translation of the priority document for the claims in the instant application has been considered. However, even assuming *arguendo* that the claims have support in the priority application, it is not clear that there is no matter in the international application which is not in the priority application. Such matter could be added to the claims by amendment at a later date. The statement of facts by Naonori Murakami and the "Regulations for Employee's Invention" have also been considered. If petitioner is attempting to show that this agreement was an employment agreement where inventor Matsui as an employee agreed to assign all inventions made during her employment to her employer, a statement of a person having firsthand knowledge of the facts that the invention

was made by the employee while employed by Kobayashi Pharmaceuticals Co., Ltd. must be provided. Attention is directed to MPEP § 409.03 which states in part:

> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.
>
> 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.

Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(b) at this time.

Petition Under 37 CFR 1.59(b)

Petitioner requests that the documents submitted as exhibits with the initial petition filed 07 February 2007 be expunged from the record. Petitioner has provided redacted copies of these exhibits (Exhibits A-F filed 09 October 2007). Petitioner states that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been removed from the official file.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

For the reasons set forth above, the petition under 37 CFR 1.59(b) is **GRANTED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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/

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Legal Examiner
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01 OCT 2008

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CHICAGO IL 60606

In re Application of	:	DECISION ON
MATSUI	:	
Application No.: 10/561,629	:	PETITION UNDER
PCT No.: PCT/JP2004/008710	:	
Int. Filing Date: 21 June 2004	:	37 CFR § 1.47(b)
Priority Date: 20 June 2003	:	
Attorney Docket No.: 19036/40796	:	
For: OPHTHALMIC COMPOSITION	:	

This is a decision on applicant's second renewed petition under 37 CFR 1.47(b) filed in the United States Patent and Trademark Office (USPTO) on 20 May 2008.

BACKGROUND

On 21 June 2004, applicant filed international application PCT/JP2004/008710, which designated the US and claimed a priority date of 20 June 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 29 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 20 December 2005.

On 20 December 2005, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 06 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor 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 reply.

On 07 February 2007, applicant submitted a petition under 37 CFR 1.47(b) and a petition under 37 CFR 1.183. The petitions were accompanied by, *inter alia*, a petition/fee for a five month extension of time, the surcharge under 37 CFR 1.492(h), a declaration of facts by Madoka Yamashita, and a memorandum of law by Tadato Fujiwara.

On 16 March 2007, applicant submitted a petition under 37 CFR 1.182.

On 11 June 2007, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.47(b), applicant's petition under 37 CFR 1.183, and applicant's petition under 37 CFR 1.182.

On 09 October 2007, applicant filed a renewed petition under 37 CFR 1.47(b) and the petition under 37 CFR 1.59(b). The petition under 37 CFR 1.47(b) was accompanied by, *inter alia*, a declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, a statement of facts by Naoka Harada, a statement of facts by Yasuyo Yamaguchi, a statement of facts by Naonori Murakami, an English translation of the priority document for the instant application–Japanese Application No. 2003-176965, a chart showing support in the English translation of the priority document for the claims in the instant application, a copy of an oath signed by nonsigning inventor Yuka Matsui dated 16 April 2001 and an English translation thereof, and a copy of "Regulations for Employee's Invention" and an English translation thereof.

On 24 March 2008, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.47(b) and granting applicant's petition under 37 CFR 1.59(b). Regarding the petition under 37 CFR 1.47(b), it was noted that proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application had not been provided.

On 20 May 2008, applicant filed the instant second renewed petition under 37 CFR 1.47(b) which was accompanied by a "redline" comparison of the specification portion of the English translation of the priority application and the specification portion of the international application

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

As noted in the decision mailed 24 March 2008, , items (1)-(4) and (6) have been met.

Item (5) still has not been met. The decision mailed 24 March 2008 indicated that it was not clear that there was "no matter" in the international application which was not in the priority application. The renewed petition takes issue with this statement. The decision should have

indicated "no new matter" rather than "no matter." See MPEP 409.03(f) which states in part: "An assignment of an application and any 'reissue, division, or continuation of said application' does not itself establish an assignment of a continuation-in-part application. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956)". Any inconvenience is regretted.

Applicant has provided a copy of an assignment (in the petition filed 16 March 2007) from non-signing inventor Yuka Matsui to Kobayashi Pharmaceutical for the application–2003-176965 filed 20 June 2003–which the international application claims priority to. Applicant contends that the priority application and the international application are "substantively essentially identical". A "redline" comparison of the specification portion of the English translation of the priority application and the specification portion of the international application has been provided to support this contention. However, there appear to be three differences between the translations that may be significant: on page 1, "various" was changed to "variable"; on page 2, "elements" was changed to "means"; and on page 6, "tonicity" was changed to "isotonizing". The change on page 2 appears to be the most significant. Thus, it would be inappropriate on the present record to conclude that proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application has been provided.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301; Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

In re Application of	:	DECISION ON
MATSUI	:	
Application No.: 10/561,629	:	PETITION UNDER
PCT No.: PCT/JP2004/008710	:	
Int. Filing Date: 21 June 2004	:	37 CFR § 1.47(b)
Priority Date: 20 June 2003	:	
Attorney Docket No.: 19036/40796	:	
For: OPHTHALMIC COMPOSITION	:	

This is a decision on applicant's third renewed petition under 37 CFR 1.47(b) filed in the United States Patent and Trademark Office (USPTO) on 23 October 2008.

BACKGROUND

On 21 June 2004, applicant filed international application PCT/JP2004/008710, which designated the US and claimed a priority date of 20 June 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 29 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 20 December 2005.

On 20 December 2005, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 06 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor 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 reply.

On 07 February 2007, applicant submitted a petition under 37 CFR 1.47(b) and a petition under 37 CFR 1.183. The petitions were accompanied by, *inter alia*, a petition/fee for a five month extension of time, the surcharge under 37 CFR 1.492(h), a declaration of facts by Madoka Yamashita, and a memorandum of law by Tadato Fujiwara.

On 16 March 2007, applicant submitted a petition under 37 CFR 1.182.

On 11 June 2007, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.47(b), applicant's petition under 37 CFR 1.183, and applicant's petition under 37 CFR 1.182.

On 09 October 2007, applicant filed a renewed petition under 37 CFR 1.47(b) and the petition under 37 CFR 1.59(b). The petition under 37 CFR 1.47(b) was accompanied by, *inter alia*, a declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, a statement of facts by Naoka Harada, a statement of facts by Yasuyo Yamaguchi, a statement of facts by Naonori Murakami, an English translation of the priority document for the instant application–Japanese Application No. 2003-176965, a chart showing support in the English translation of the priority document for the claims in the instant application, a copy of an oath signed by nonsigning inventor Yuka Matsui dated 16 April 2001 and an English translation thereof, and a copy of "Regulations for Employee's Invention" and an English translation thereof.

On 24 March 2008, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.47(b) and granting applicant's petition under 37 CFR 1.59(b). Regarding the petition under 37 CFR 1.47(b), it was noted that proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application had not been provided.

On 20 May 2008, applicant filed a second renewed petition under 37 CFR 1.47(b) which was accompanied by a "redline" comparison of the specification portion of the English translation of the priority application and the specification portion of the international application

On 01 October 2008, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.47(b). Specifically, it was noted that proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application had not been provided.

On 23 October 2008, applicant 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(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

As noted in the decision mailed 01 October 2008, items (1)-(4) and (6) have been met.

Item (5) has now been met as well. Applicant's remarks filed 23 October 2008 satisfactorily explain that the differences between the priority application and the international application are not significant.

CONCLUSION

For the above reasons, applicants' renewed petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **09 October 2007**.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
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Facsimile: (571) 273-0459

05 JAN 2009

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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Ms. Yuka Matsui
14-38, Chitose-cho
Shimizu-ku, Shizuoaka-shi
Shizuaoka 424-0828
JAPAN

In re Application of
MATSUI
Application No.: 10/561,629
PCT No.: PCT/JP2004/008710
Int. Filing Date: 21 June 2004
Priority Date: 20 June 2003
Attorney Docket No.: 19036/40796
For: OPHTHALMIC COMPOSITION

Dear Ms. Matsui:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

/Daniel Stemmer/

Daniel Stemmer
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PCT Legal Affairs
Office of Patent Cooperation Treaty
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NELSON MULLINS RILEY & SCARBOROUGH LLP
IP DEPARTMENT
100 NORTH TRYON STREET
42ND FLOOR
CHARLOTTE NC 28202-4000

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DEC 07 2009

OFFICE OF PETITIONS

In re Application of :
Karsten WASSERMANN et al. :
Application No. 10/561,639 : DECISION ON PETITION
Filed: September 22, 2006 :
Attorney Docket No. **30251/09017** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 21, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 04, 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 May 05, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/583,601.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **NICHOLE ANDRIGHETTI**
1320 MAIN STREET – 17TH FLOOR
COLUMBIA SC 29201

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 05/06/2010

Applicant	: Stefan Hoffmann	: DECISION ON REQUEST FOR
Patent Number	: 7658076	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/561,641	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **727** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JJGJR.: 02-07

Paper No: __

BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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MAR 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Waldman, et al. :
Application No. 10/561,646 : ON PETITION
Filed: 20 December, 2005 :
Attorney Docket No. 3174.1012-013 :

This is a decision on the petition filed on 16 October, 2006, under 37 C.F.R. §1.47.

For the reasons set forth below, the petition under 37 C.F.R. §1.47 is **GRANTED**.

BACKGROUND

The record indicates:

- the instant application was filed on 20 December, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 21 March, 2006, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 16 October, 2006, Petitioner William J. Egan III (Reg. No. 28,411) filed, *inter alia*, the original petition, an oath/declaration signed by co-inventors Waldman, Ingwall, Raguin, Berg, Joseph and Kent for themselves and on behalf of the nonsigning inventor Vincent Fedele (Mr. Fedele) and an averment, supported by a copy of the transmittal, that the entire application (description, claims, abstract and drawings) as required by statute and regulation, was sent to Mr. Fedele, and an averment as to the reasonably believed to be last known/current mailing address for Mr. Fedele–and while Mr. Fedele's reply of 27 July, 2006, refers to more than one application, it specifically cites the attorney docket

number (3174.1012-013) of the instant application and on the second page specifically acknowledges receipt of the instant application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

This application and its papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

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JJGJR.: 02-07

Paper No: __

VINCENT FEDELE
P.O. BOX 061
HARVARD, MA 01451

COPY MAILED

MAR 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Waldman, et al. :
Application No. 10/561,646 : COMMUNICATION
Filed: 20 December, 2005 :
Attorney Docket No. 3174.1012-013 :

Dear Vincent Fedele:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as 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 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding

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[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

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 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

In re Application of :
FEDELE, et al. :
Serial No.: 10/561,647 :
PCT No.: PCT/US04/19713 : DECISION ON PETITION
Int. Filing Date: 21 June 2004 :
Priority Date: 21 June 2003 : UNDER 37 CFR 1.47(a)
Atty Docket No.: 3174.1012-014 :
For: METHOD AND APPARATUS FOR :
PROCESSING BIOMETRIC IMAGES :

This decision is in response to applicant's "PETITION FOR APPLICATION BY OTHER THAN ALL THE INVENTORS" filed 21 July 2008 to accept the application without the signature of joint inventor Vincent Fedele.

BACKGROUND

On 21 June 2004, applicant filed international application PCT/US04/19713 which claimed priority to a previous application filed 21 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, 21 December 2005.

On 20 December 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment..

On 20 February 2008, 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 21 July 2008, applicant filed a response including the present petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor Vincent Fedele accompanied by a petition for a three-month extension of time. With the filing of the petition for a three-month extension of time and payment of the appropriate extension of time fee, the present response is considered timely filed.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant has satisfied items 1-3.

Regarding item (4), the declaration filed 21 July 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.

The filed declaration contains two pages "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 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)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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UNITED STATES PATENT AND TRADEMARK OFFICE

13 FEB 2009

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United States Patent and Trademark Office
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BEYER WEAVER LLP
P.O. BOX 70250
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In re Application of	:	
FEDELE, et al.	:	
Serial No.: 10/561,647	:	
PCT No.: PCT/US04/19713	:	DECISION ON PETITIONS
Int. Filing Date: 21 June 2004	:	
Priority Date: 21 June 2003	:	UNDER 37 CFR 1.47(a)
Atty Docket No.: 3174.1012-014	:	
For: METHOD AND APPARATUS FOR PROCESSING BIOMETRIC IMAGES	:	AND 37 CFR 1.181

This decision is in response to applicant's "RENEWED PETITION FOR APPLICATION BY OTHER THAN ALL THE INVENTORS" filed 02 February 2009 to accept the application without the signature of joint inventor Vincent Fedele. In addition, this decision contains a ruling on applicant's communication of 12 January 2009 which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

BACKGROUND

On 04 August 2008, 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 12 November 2008, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) notifying applicant that the above-captioned application was abandoned for failure to respond to the decision mailed 04 August 2008.

On 12 January 2009, applicant filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

On 02 February 2009, applicant filed the renewed petition discussed herein accompanied by payment of a five-month extension of time fee. Applicant is advised that only a four-month extension of time payment was required to make the response timely. The difference in extension of time fees will be refunded to deposit account number 50-4480.

DISCUSSION

I. Petition Under 37 CFR 1.181

As discussed above, the decision mailed 04 August 2008 afforded applicant two months to file any request for reconsideration, as well as, an extendable period of up to five months pursuant to 37 CFR 1.136(a). Therefore, the abandonment of the application prior to 04 March 2009 was premature. The Form PCT/DO/EO/909 will be vacated and applicant's petition under 37 CFR 1.181 is granted.

II. Renewed Petition Under 37 CFR 1.47(a)

As detailed in the decision mailed 04 August 2008, 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.

Applicant has presently provided a compliant, combined declaration and power of attorney executed by the remaining joint inventors on their own behalf and on behalf of Vincent Fedele. Therefore, applicant has satisfied item (4) and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.181 and renewed petition under 37 CFR 1.47(a) are **GRANTED**.

The Form PCT/DO/EO/909 mailed 12 November 2008 is hereby **VACATED**.

The application has an international filing date of 21 June 2004 under 35 U.S.C. 363, and will be given a date of **02 February 2009** under 35 U.S.C. 371 (c).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

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UNITED STATES PATENT AND TRADEMARK OFFICE

13 FEB 2009

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Mr. Vincent Fedele
P.O. Box 061
Harvard, MA 01451-0061

In re Application of
FEDELE, et al.
Serial No.: 10/561,647
PCT No.: PCT/US04/19713
Int. Filing Date: 21 June 2004
Priority Date: 21 June 2003
Atty Docket No.: 3174.1012-014
For: METHOD AND APPARATUS FOR PROCESSING BIOMETRIC IMAGES

Dear Mr. Fedele:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. 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.

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24 JAN 2006

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In re Application of :
EGAMI, et al. :
Application No.: 10/561,662 : DECISION ON PETITION
PCT No.: PCT/JP04/08504 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 10 June 2004 :
Priority Date: 10 June 2003 :
Attorney Docket No.: JCLA13942 :
For: SLIDE BEARING

The petition to revive under 37 CFR 1.137(b) filed 10 January 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 forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

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17 JUL 2008

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Elias Lambiris
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New York, NY 10110

In re Application of	:	DECISION ON
Viksoe-Nielsen et al	:	
Application No.: 10/561,671	:	
PCT No.: PCT/DK2004/000456	:	
Int. Filing Date: 25 June 2004	:	PETITION UNDER
Priority Date: 25 June 2003	:	
Attorney's Docket No.: 10473.204-US	:	
For: STARCH PROCESS	:	37 CFR 1.10 (c)

This decision is in response to applicants' "PETITION UNDER 37 C.F.R. 1.10(c)" filed on 11 June 2008, requesting that the filing date of December 22, 2005 be changed to December 20, 2005 for the national stage submission for the above identified application. No fee is required for this petition.

BACKGROUND

On 22 December 2005, petitioner purportedly filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and an executed declaration.

On 11 June 2008, applicants filed the present petition stating that the application was in fact deposited with the USPS on 20 December 2005 as evidenced by the USPS "date-in" section on the "Express Mail" label and the circular stamped on the "Express Mail" label indicating a date of 20 December 2005.

DISCUSSION

37 CFR 1.10(c) provides:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant met items (2) and (3) but not item (1) under 37 CFR 1.10 (c).

The petition was not filed promptly since the application was filed on 22 December 2005 and the petition to correct the 371 date was filed on 11 June 2008. It is unclear why it took so long for applicant to file the petition. 37 CFR 1.10(c)(1).

A review of the application papers reveals that "Express Mail" Label No. EV611574355US was placed on the "Express Mail Certificate" prior to the original mailing by "Express Mail." CFR 1.10(c)(2). Finally, the copy of the customer receipt of "Express Mail" Label No. EV611574355US filed with the present petition identifies the "date in" as "12/20/08" and also it is stamped by the USPS with said date, which shows that the above application was submitted on December 20, 2005. 37 CFR 1.10(c)(3).

For the above reasons, it would not be appropriate to grant the petition under 37 CFR 1.10(c) at this time.

CONCLUSION

For reasons above, the petition under 37 CFR 1.10(c) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(c)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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15 SEP 2008

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In re Application of	:	DECISION ON
Viksoe-Nielsen et al	:	
Application No.: 10/561,671	:	
PCT No.: PCT/DK2004/000456	:	
Int. Filing Date: 25 June 2004	:	PETITION UNDER
Priority Date: 25 June 2003	:	
Attorney's Docket No.: 10473.204-US	:	
For: STARCH PROCESS	:	37 CFR 1.10 (c)

This decision is in response to applicants' "REQUEST FOR RECONSIDERATION OF DECESION ON PETITION UNDER 37 C.F.R. 1.10(c)" filed on 25 July 2008, requesting that the filing date of December 22, 2005 be changed to December 20, 2005 for the national stage submission for the above identified application. No fee is required for this petition.

BACKGROUND

In a decision from this Office on 17 July 2008, the decision stated that item (1) was not met because it was unclear why it took applicant so long to file the petition.

On 25 July 2008, applicants filed the present renewed petition stating that they became aware of the mistake when they received the received the filing receipt on May 9, 2008.

DISCUSSION

37 CFR 1.10(c) provides:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicants have now satisfied items (1) – (3) of 37 CFR 1.10(c)

The petition was filed promptly because if was filed shortly after the applicants received the filing receipt on May 9, 2008, which showed an incorrect date. Applicants were under the assumption that the Office would grant the correct date even though the return stamped postcard had a date of 22 December 2005 from the USPTO. 37 CFR 1.10(c)(1).

Accordingly, the requirements under 37 CFR 1.10(c) have been satisfied.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 09 May 2008 is **VACATED** with the mailing of this decision.

CONCLUSION

For reasons above, the petition under 37 CFR 1.10(c) is **GRANTED.**

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 including the preparation and mailing of a Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **20 December 2005.**

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Austin, TX 78720

28 SEP 2006

In re Application of	:	
Evans	:	
Application No.: 10/561,686	:	DECISION
PCT No.: PCT/GB03/05267	:	
Int. Filing Date: 02 December 2003	:	ON
Priority Date: 28 June 2003	:	
Attorney Docket No.: GB920030049US1	:	PETITION
For: Predictive Graphical User Interface With Speculative Execution	:	

This is in response to the "Response to Notice of Missing Requirements" and accompanying papers filed on 10 July 2006, which are being treated as a petition under 37 CFR 1.47(b).

BACKGROUND

This international application was filed on 02 December 2003, claimed an earlier priority date of 28 June 2003, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 13 January 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 28 December 2005. Applicants filed *inter alia* the basic national fee on 22 December 2005.

On 09 May 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration and a surcharge under 37 CFR 1.492(h).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the fee under 37 CFR 1.17(I), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known addresses of the inventors, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Regarding requirement (1), the petitioner includes a general fee authorization. Accordingly, the $200.00 petition fee is being charged to counsel's Deposit Account No. 09-0461.

Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of sole inventor David Edward Evans be excused because he allegedly is "refusing to

join in the above-identified patent application." Counsel's attention is respectfully drawn to MPEP 409.03(d), which states in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal. When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition

Counsel has presented a copy of a letter from Evelyn Steer to Mr. Evans, dated "4 November 2003," which references an enclosed "final version of the patent application, and the formal papers. There are two forms to be signed and dated. The first is called 'Declaration and Power of Attorney'..." Petitioner indicates that "no response was received." However, petitioner has not provided a statement by a person having first-hand knowledge attesting that the letter and attachments were in fact mailed toMr. Evans. As such, it would not be appropriate at this time to construe Mr. Evans' failure to return the executed declaration as a "refusal" within the meaning of 37 CFR 1.47(b).

Regarding requirement (3), the petition includes a statement the last known address of Mr. Evans. Accordingly, requirement (3) has been satisfied.

Concerning requirement (4), the instant renewed petition is accompanied by a declaration naming "David E. Evans" as the sole inventor. This declaration has not been executed on behalf of Mr. Evans, and therefore it is not acceptable for purposes of compliance with requirement (4).

Regarding requirement (5), petitioner's attention is respectfully directed to 37 CFR 3.73(b)(1), which provides that

> In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
>
> (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). The documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office; or
>
> (ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

and to MPEP 409.03(f), which provides in part that

When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that

> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324). An assignment of an application and any "reissue, division, or continuation of said application" does not itself establish an assignment of a continuation-in-part application. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956). An assignment to a 37 CFR 1.47(b) applicant for the sole purpose of obtaining a filing date for a 37 CFR 1.47(b) application is not considered an assignment within the meaning of 35 U.S.C. 118 and 37 CFR 1.47(b).
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone

with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter. A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Petitioner has not specifically identified the 37 CFR 1.47(b) applicant nor presented proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, in the manner described supra. In the absence of such a showing, it would be inappropriate to conclude that requirement (5) has been satisfied.

Regarding requirement (6), the petition does not appear to include a showing that according the application status under 37 CFR 1.47(b) is necessary to preserve the rights of the parties or to prevent irreparable damage.

DECISION

The petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

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Austin, TX 78720

19 MAR 2007

In re Application of	:	
Evans	:	
Application No.: 10/561,686	:	DECISION
PCT No.: PCT/GB03/05267	:	
Int. Filing Date: 02 December 2003	:	ON
Priority Date: 28 June 2003	:	
Attorney Docket No.: GB920030049US1	:	PETITION
For: Predictive Graphical User Interface With Speculative Execution	:	

This is in response to the renewed petition under 37 CFR 1.47(b) filed on 26 February 2007.

DISCUSSION

In a Decision mailed on 28 September 2006, the petition under 37 CFR 1.47(b) filed on 10 July 2006 was dismissed without prejudice because

> Regarding requirement (2), Counsel has presented a copy of a letter from Evelyn Steer to Mr. Evans, dated "4 November 2003," which references an enclosed "final version of the patent application, and the formal papers. There are two forms to be signed and dated. The first is called 'Declaration and Power of Attorney'..." Petitioner indicates that "no response was received." However, petitioner has not provided a statement by a person having first-hand knowledge attesting that the letter and attachments were in fact mailed to Mr. Evans. As such, it would not be appropriate at this time to construe Mr. Evans' failure to return the executed declaration as a "refusal" within the meaning of 37 CFR 1.47(b).
>
> Concerning requirement (4), the instant renewed petition is accompanied by a declaration naming "David E. Evans" as the sole inventor. This declaration has not been executed on behalf of Mr. Evans, and therefore it is not acceptable for purposes of compliance with requirement (4).
>
> Regarding requirement (5), Petitioner has not specifically identified the 37 CFR 1.47(b) applicant nor presented proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, in the manner described supra. In the absence of such a showing, it would be inappropriate to conclude that requirement (5) has been satisfied.
>
> Regarding requirement (6), the petition does not appear to include a showing that according the application status under 37 CFR 1.47(b) is necessary to preserve the rights of the parties or to prevent irreparable damage.

Regarding **requirement (2)**, the instant renewed petition is accompanied by a "Declaration By Evelyn Steer..." which describes her attempts obtain Mr. Evans' signature. She states that she sent a letter and a "copy of the application, declaration and assignment" to Mr.

Evans on 04 November 2003, that she sent him an email on 22 December 2005, that she mailed "correspondence" to him on 16 January 2006, and that she sent "via a courier a copy of the application, declaration and assignment to the last known address of Mr. Evans"on 08 January 2007. However, the "Declaration By Evelyn Steer..." is not accompanied by copies of any of this correspondence. It is noted that Ms. Steer references an "Exhibit 'A'," but the only "Exhibit 'A'" which accompanied the instant renewed petition (and is present in the application file) is a copy of a declaration document signed by Mark Cox. Ms. Steer also refers to "an attempt... to contact him through an old colleague," but no statement detailing this "attempt" on the basis of first-hand knowledge has been provided (for instance, who was the colleague, was said colleague connected to Mr. Evans in a capacity likely to result in continued contact, who contacted said colleague, etc.). Also, regarding the correspondence of 08 January 2007, Ms. Steer states that "the confirmation papers accompanying the papers were signed by someone other than Mr. Evans," but has not provided a copy of such "papers." As such, petitioner has not adequately established that Mr. Evans refused to execute the application after having been presented with a complete copy of the application papers (and an oath or declaration), or that he could not be found or reached after diligent effort within the meaning of 37 CFR 1.47(b).

With respect to **requirement (4)**, petitioner has presented a declaration signed on behalf of David Edward Davis by "Mark Cox, Manager." However, petitioner has not established the authority of Mr. Cox to sign, as the position of "Manager" does not ordinarily give rise to the authority to sign on behalf of an organization. *See* MPEP 324.

Concerning **requirement (5)**, petitioner has provided a copy of a "Confidential Information, Copyright and Invention Agreement" signed by David Evans and by D. Fowler in the capacity of "IBM Personnel/Recruitment Officer." MPEP 409.03(f)(C) states in part that

> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

The instant Agreement provides in pertinent part that

> If in the course of my employment by IBM, either alone or with others, I make any invention, IBM will own such invention and all patent rights in it in accordance with law and I shall promptly disclose such invention to IBM. Any such invention which by law does not belong to IBM will belong to me.

Review of the application file reveals that petitioner has not provided the required "statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant" as described at MPEP 409.03(f)(C). Under the language appearing in the Agreement, it appears that a showing that the invention was made in the "course of" Mr. Evans' employment would be appropriate, but such has not been provided. Therefore, requirement 5 has not been satisfied.

As to **requirement (6)**, petitioner has provided a statement explaining why according the application status under 37 CFR 1.47(b) is necessary to preserve the rights of the parties or to prevent irreparable damage ("Declaration By Stephen A. Terrile...," para. III. (4)); as such, requirement (6) has now been satisfied.

DECISION

The petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

• United States Patent and Trademark Office

0 7 AUG 2007

Commissioner for Patents
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www.uspto.gov

Hamilton & Terrile, LLP
P.O. Box 203518
Austin, TX 78720

In re Application of	:	
Evans	:	
Application No.: 10/561,686	:	
PCT No.: PCT/GB03/05267	:	
Int. Filing Date: 02 December 2003	:	DECISION
Priority Date: 28 June 2003	:	
Attorney Docket No.: GB920030049US1	:	
For: Predictive Graphical User Interface With Speculative Execution	:	

This is in response to the renewed submission filed on 24 April 2007.

DISCUSSION

In a Decision mailed on 19 March 2007, the renewed petition under 37 CFR 1.47(b) filed on 26 February 2007 was dismissed without prejudice. Petitioner now submits a declaration executed by the sole inventor, David E. Evans. This declaration is compliant with the requirements of 37 CFR 1.497(a) and (b). As such, the petition under 37 CFR 1.47(b) has been rendered moot.

DECISION

The petition under 37 CFR 1.47(b) is **DISMISSED AS MOOT**, without prejudice.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **24 April 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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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Thomas Korssell	: DECISION ON REQUEST FOR
Patent Number	: 7609010	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/561,694	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **691** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 JUL 2010

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

In re Application of	:	
ODIDI, Isa, et al.	:	
U.S. Application No.: 10/561,700	:	DECISION
Int. Filing Date: 03 June 2004	:	
Attorney Docket No.: 221904-1050	:	
For: PROTON PUMP-INHIBITOR-...	:	
THE ACTIVE INGREDIENT	:	

This is a decision on applicant's petition under 37 CFR §1.78(a)(3), to accept an unintentionally delayed claim for priority, filed in the United States Patent and Trademark Office on 03 February 2010.

The petition is **DISMISSED AS MOOT**.

The instant petition seeks acceptance of a late claim for priority to a prior-filed international application by way of an amendment to the specification.

As set forth in MPEP 1893.03(c), a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage as its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). In this regard, since the international application is not an earlier application (it has the same filing date as the national stage), a priority claim in the national stage of the international application is inappropriate. Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage under 35 U.S.C. § 371.

In the amendment, applicants also add priority claims to prior filed provisional applications. The current procedure where a claim for priority under 37 CFR §1.78(a)(6) is not included in the first sentence of the specification or in an ADS but is included elsewhere in the application within the time period set forth in §1.78(a) and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6). In the instant case, the Office noted the claim for priority of

the prior-filed applications in the published international application, as shown by their inclusion on the filing receipt.

In view of the above, the $1410 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Erin Thomson at (571) 272-3292. 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 the Examiner of Technology Center AU 1611 for appropriate action on the amendment filed 03 February 2010, including consideration of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for benefit of the prior-filed application.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

22 DEC 2006

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Lisa A. Haile, J.D., Ph.D.
DLA Piper US, LLP
4365 Executive Drive, Suite 1100
San Diego, CA 92121-2133

In re Application of	:	
FENICAL, et al.	:	
Application No.: 10/561,711	:	DECISION ON PETITION
PCT No.: PCT/US04/19453	:	
Int. Filing Date: 18 June 2004	:	UNDER 37 CFR 1.10(c)
Priority Date: 20 June 2003	:	
Atty. Docket No.: UCSD1530-5	:	
For: SALINOSPORAMIDES AND METHODS FOR USE THEREOF	:	

This is a decision on applicant's "Request to Withdraw Notification of Abandonment" filed 16 October 2006 in the United States Patent and Trademark Office (USPTO). The petition is being treated under 37 CFR 1.10(c). No petition fee is required.

BACKGROUND

On 18 June 2004, applicant filed international application PCT/US04/19453 which claimed priority to an earlier U.S. application filed 20 June 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 20 December 2005.

On 20 December 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 24 March 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 national stage for failure to provide payment of the full U.S. Basic National Fee by 30 months.

On 16 October 2006, applicant filed the present petition indicating that the fee payment and filing was made on 20 December 2005; not 21 December 2005 as indicated on the stamped return postcard.

DISCUSSION

37 CFR 1.10(c) states: Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of

the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above. In addition, a review of the USPS track and confirm website shows a date of acceptance by the USPS of "12/20/05 6:03pm." Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10 is **GRANTED**.

The "Notification of Abandonment" (Form PCT/DO/EO/909) mailed 24 March 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 Missing Requirements" (Form PCT/DO/EO/905) indicating the need to provide an executed oath or declaration of the inventors.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

MAILED

JAN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Masahiro Tada	:	
Application No. 10/561,715	:	DECISION ON PETITION
Filed: December 21, 2005	:	
Attorney Docket No. 09792909-6523	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees and submit corrected drawings on or before November 7, 2008, as required by the Notice of Allowance and Fee(s) Due and Notice of Allowability mailed August 7, 2008. Accordingly, the date of abandonment of this application is November 8, 2008. A Notice of Abandonment was mailed December 4, 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 $1,510.00, publication fee of $300.00 and submission of Corrected drawings; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

It is noted that a duplicate Office action originally mailed December 12, 2007 was inadvertently re-mailed on August 11, 2008. All issues have been addressed and overcome during prosecution and therefore this application is considered ready for allowance.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

William S Frommer
Frommer Lawrence Haug LLP
745 Fifth Avenue
New York NY 10151

MAILED

JAN 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Klipstein	:	
Application No. 10/561,729	:	RESPONSE TO PETITION
Filed: February 12, 2007	:	
Attorney Docket No. 456110-2360	:	

This is a response to the renewed petition, filed September 24, 2009, under 37 CFR 1.59(b) to expunge information from the above identified application.

The petition is **granted**.

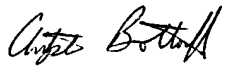
A Response Under 37 CFR 1.111 (Response) was filed in the above-identified application on September 23, 2009. The first page of the Response identified Application No. 11/093,868, filed March 30, 2005, and the content of the Response is consistent with the content of that application. However, the Response was filed through the Electronic Filing System (EFS) and was directed to the above-identified application, 10/561,729. Petitioner asserts that the Response was unintentionally filed in the above-identified application and requests that the Response be expunged from the File Wrapper of the above-identified application and transferred to Application No. 11/093,868.

Upon a showing satisfactory to the Director, information, other than that forming part of the original disclosure, may be expunged from an application. Since the Office can determine the correct application file for which the erroneously filed papers were intended from the identifying information on the papers, the papers will be transferred as requested.

The Response filed September 23, 2009 will be closed in the Image File Wrapper (IFW) for application serial no. 10/561,729 and also removed from the listing of publicly available documents. The Response relates to application number 11/093,868 and will be transferred to that application.

As a condition of this favorable treatment petitioner is required to maintain the material in question during the enforceable life of any patent arising from this application, or any patent claiming benefit of this application.

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-6692.



Christopher Bottorff
Petitions Examiner
Office of Petitions

18 SEP 2009

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NXP, B.V.
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M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

In re Application of HINZ	:	
Application No.: 10/561,733	:	
PCT No.: PCT/IB04/50918	:	DECISION ON
Int. Filing: 16 June 2004	:	
Priority Date: 25 June 2003	:	PETITION TO REVIVE
Attorney Docket No.:DE030225US1	:	
For:ARRANGEMENT COMPRISING A MAGNETIC FIELD DEPENDENT ANGLE SENSOR	:	UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 20 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 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 executed declaration has now been provided. The required petition fee of $1620 was also paid. The $130 surcharge for filing the declaration after the thirty month period will be charged to applicant's deposit account per his authorization. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1,(c)(2) and (c)(4) is 20 July 2009.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

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PORTLAND OR 97205-3335

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AUG 0 3 2007

OFFICE OF PETITIONS

Applicant: Vogelbacher et al.
Appl. No.: 10/561,736
International Filing Date: March 18, 2004
Title: EXTRUSION DIE HAVING AT LEAST ONE FLEXIBLE LIP ELEMENT
Attorney Docket No.: WBA05302
Pub. No.: US 2006/0165835 A1
Pub. Date: July 27, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 25, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors on the front page of the publication wherein an inventor's name "Gerhard Vogelbacher" is misprinted as "Gerhard Vegelbacher", wherein the title of the invention "Extrusion Die Having at Least One Flexible Lip Element" is misprinted as "Extrusion Die Having at Least Flexible Lip Element" and the city of residence for an inventor "Konstanz, DE" is misprinted as "Konztanz, DE."

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors on the front page of the publication may be Office errors, but they are not material Office errors under 37 CFR 1.221. The misspelling of an inventor's name, the misspelling of the residence of an inventor, and the omission of the word "One" in the title of the application does not affect the understanding of the application. The mistake does not affect the public's ability

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

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.

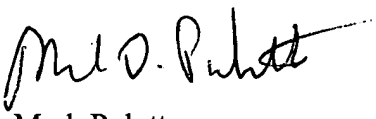
On April 25, 2006, a Filing Receipt was mailed by the Office, which improperly listed the title, inventor's name and the city. To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

25 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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P. O. BOX 5257
NEW YORK NY 10150-5257

In Re Application of
IPPIKOGLOU
Application No.: 10/561,743
PCT No.: PCT/EP04/06600
Int. Filing Date: 18 June 2004
Priority Date: 20 June 2003
Attorney Docket No.: 02901/0203760-US0
For: METHOD OF PRODUCING RECOMBINANT DNA MOLECULES

DECISION

This is a decision on applicant's "REQUEST FOR CORRECTED FILING RECEIPT AND NOTICE OF ACCEPTANCE" filed in the United States Patent and Trademark Office (USPTO) on 23 May 2006.

On 18 June 2004, applicant filed international application No. PCT/EP04/06600 which claimed a priority date of 20 June 2003 and which designated the United States. Thereafter, on 20 December 2005, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee. On 15 February 2006, applicant filed an executed declaration.

On 08 May 2006, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) was mailed correctly indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 20 December 2005. No Notification of Missing Requirements (Form PCT/DO/EO/905) was issued.

Applicant urges that the Form PCT/DO/EO/903 be vacated and that a new Notification of Acceptance be issued indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 15 February 2006.

A review of the application in the USPTO's Image File Wrapper (IFW) file confirms that the executed declaration, in accord with PCT Rule 4.17, was submitted on 20 December 2005, which is in compliance with 37 CFR 1.497(a) & (b).

The Notification of Acceptance mailed on 08 May 2006 was not erroneously issued. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 20 December 2005.

CONCLUSION

For the reasons set forth above, applicant's request to vacate the Notification of Acceptance is **DISMISSED**.

filing receipt remain in effect.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286

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SEP 12 2008

In re Application of :
Efthimios Ippikoglou :
Application No. 10/561,743 : DECISION ON PETITION
Filed: December 20, 2005 :
Attorney Docket No. 02901/0203760-US0 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 16, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 1.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 30, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

Examiner has responded to the Amendment After Final with an Advisory Action (copy enclosed).

Further, there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Also, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Further, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,115.00, five month extension of time fee submitted with the petition on July 16, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Konstantina M. Katcheves
500 East Pratt Street
9th Floor
Baltimore, MD 21202

Enclosure: Examiner's Advisory Action

PTO/SB/96 (01-08)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____	_____
Signature	Date
_____	_____
Printed or Typed Name	Telephone Number
_____	
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/561,743	**Applicant(s)** IPPIKOGLOU, EFTHIMIOS	
	Examiner NIRMAL S. BASI	**Art Unit** 1646	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☒ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *Applicant has amended the claims to include the language, "wherin the alpha FSH and beta FSH subunits do not comprise intervening polypeptide sequences". The amendment to the claims requires a new sequence search of the claim and rasies the issue of new mattewr. If applicant feels the amended claim has support in the specifcation then he must clearly state where this support can be found.* (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *33*.
   Claim(s) withdrawn from consideration: *30-32 and 34-37*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Christine J Saoud/
Primary Examiner, Art Unit 1647

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BALTIMORE MD 21202

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DEC 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Efthimios Ippikoglou	:	
Application No. 10/561,743	:	DECISION ON PETITION
Filed: December 20, 2005	:	
Attorney Docket No. 357229.00002	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely and properly reply within the meaning of 37 CFR 1.113 to the final Office action mailed April 30, 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 timely obtained. Accordingly, the application became abandoned on July 31, 2007. A Notice of Abandonment was mailed November 27, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee of $270.00; (2) the petition fee of $770.00 (previously paid on July 16, 2008; and (3) a proper statement of unintentional delay.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

Additionally, petitioner's request for a change in power of attorney and change in correspondence address has been accepted. (copy of Notice of Acceptance of Power of Attorney enclosed)

Further, the terminal disclaimer and $65.00 fee previously filed July 16, 2008 is unnecessary and will be refunded to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 1646 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/561,743	12/20/2005	Efthimios Ippikoglou	02901/0203760-US0

CONFIRMATION NO. 8279

74549
Saul Ewing LLP (Baltimore)
Attn: Patent Docket Clerk
Lockwood Place
500 East Pratt Street, Suite 900
Baltimore, MD 21202

POA ACCEPTANCE LETTER

OC000000003397208

Date Mailed: 12/02/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/07/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/jolszewski/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Paper No.

FISH & RICHARDSON P.C.
P.O BOX 1022
MINNEAPOLIS MN 55440-1022

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SEP 03 2009

OFFICE OF PETITIONS

In re Patent No. 7,485,644 :
Finlay et al. :
Application No. 10/561,747 :
Issue Date: February 3, 2009 :
Filed: December 21, 2005 :
Attorney Docket No. :
06275-487US1/100985-1P US :

DECISION DISMISSING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed on April 2, 2009. Patentees request that the determination of patent term adjustment be corrected from two hundred seventy-seven (277) days to three hundred twenty-one (321) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 277 days.

BACKGROUND

This application was filed on December 21, 2005. On October 6, 2008, the Office mailed a notice that the initial determination of patent term adjustment under 35 U.S.C. 154(b) to date is 277 days[1]. On February 3, 2009, the application matured into U.S. Patent No. 7,485,644 with a revised patent term adjustment of 277 days. The Office determined that the 44 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[2,3]

[1] 338 days of Office delay was reduced by 61 days of applicant delay for a patent term adjustment of 277 days. No request for reconsideration of this initial determination was filed.

[2] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of

overlaps with the 338 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[4,5] accorded prior to the issuance of the patent. As such, no additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 61 days, the patent issued with a revised patent term adjustment of 277 (338 - 61) days.

On April 2, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 321 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 382 (338 + 44) days as these periods do not occur on the same day. Further, given the applicant delay of 61 days, patentee asserts entitlement to 321 (382 - 61) days of patent term adjustment.

OPINION

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the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

[3] As of the issuance of the patent on February 3, 2009, the application was pending three years and 44 days.

[4] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[5] A first Office action was not mailed until January 25, 2008, fourteen months and 338 days after the application filing date, December 21, 2005.

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[6] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR

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[6] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

§ 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), December 21, 2005, and ending on the date of issuance of the patent, February 3, 2009, (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 338 days of patent term adjustment were accorded during the pendency of the application for Office delay. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 44 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 44 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 338 days of patent term adjustment under 37 CFR 1.702(a). Entry of both the 338 days and the 44 days is neither permitted nor warranted. 338 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of adjustment pursuant to § 1.702(b) for a total of the greater period of 338 days for Office delay.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 277 days (338 days of Office delay - 61 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Christina Tartera Donnell for

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

13 SEP 2006

NORRIS, MCLAUGHLIN & MARCUS
875 THIRD AVE
18TH FLOOR
NEW YORK NY 10022

In re Application of	:	
NGUYEN et al.	:	
Application No.: 10/561,749	:	DECISION
PCT No.: PCT/GB2004/002267	:	
Int. Filing Date: 28 May 2004	:	
Priority Date: 26 June 2003	:	
Attorney Docket No.: 102792-133 (11256P3 US)	:	
For: IMPROVED DISPENSING DEVICE	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 22 February 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 May 2004, applicants filed international application PCT/GB2004/002267, which designated the United States and claimed a priority date of 26 June 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 06 January 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 December 2005 (26 December 2005 being a Federal holiday).

On 21 December 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 22 February 2006, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, a declaration of facts by Andrew N. Parfomak, a copy of a letter from Mr. Parfomak to non-signing inventor Lamson Nguyen, and a copy of a Federal Express receipt.

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. A communication was sent to Mr. Nguyen's last known address on 27 January 2006. The package was signed for by a "G. Nguyen" on 28 January 2006. As of the date of the filing of the petition, Mr. Nguyen had not responded to the 27 January 2006 communication. However, there does not appear to have been any follow-up, either by letter or by phone, with Mr. Nguyen regarding the communication. Mr. Nguyen could have received the documents and simply forgotten about them. Follow-up to the 27 January 2006 communication is required to establish a refusal to sign.

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

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01 NOV 2006

NORRIS, MCLAUGHLIN & MARCUS
875 THIRD AVE
18TH FLOOR
NEW YORK NY 10022

In re Application of	:	
NGUYEN et al.	:	
Application No.: 10/561,749	:	DECISION
PCT No.: PCT/GB2004/002267	:	
Int. Filing Date: 28 May 2004	:	
Priority Date: 26 June 2003	:	
Attorney Docket No.: 102792-133 (11256P3 US)	:	
For: IMPROVED DISPENSING DEVICE	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 29 September 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 May 2004, applicants filed international application PCT/GB2004/002267, which designated the United States and claimed a priority date of 26 June 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 06 January 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 December 2005 (26 December 2005 being a Federal holiday).

On 21 December 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 22 February 2006, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, a declaration of facts by Andrew N. Parfomak, a copy of a letter from Mr. Parfomak to non-signing inventor Lamson Nguyen, and a copy of a Federal Express receipt.

On 13 September 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided.

On 29 September 2006, applicants filed the instant renewed petition which includes, *inter alia*, a copy of a letter from Mr. Parfomak to non-signing inventor Lamson Nguyen dated 31

March 2006; a FedEx tracking statement for the letter dated 31 March 2006; a copy of a letter from Mr. Parfomak to non-signing inventor Lamson Nguyen dated 07 April 2006; and a copy of delivery information from FedEx for the letter dated 07 April 2006.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As noted in the decision mailed 13 September 2006, items (1), (3), and (4) have been satisfied.

Item (2) has now been satisfied. The evidence of record indicates that Mr. Lamson Nguen has been presented with a copy of the application papers several times and his conduct constitutes a refusal to sign.

CONCLUSION

For the above reasons, applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **22 February 2006**.

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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PATRICK SHELDRAKE
CNH AMERICA LLC
INTELLECTUAL PROPERY LAW DEPARTMENT
P.O.BOX 1895, M.S. 641
NEW HOLLAND PA 17557

MAILED

JUL 30 2009

OFFICE OF PETITIONS

In re Application of :
Ralf Schmeling et al. :
Application No. 10/561,755 : DECISION ON PETITION
Filed: May 16, 2006 :
Attorney Docket No. 18213 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 24, 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 October 21, 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). A two (2) month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 22, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment that prima facie places the application is condition for allowance, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Newton Edwards at (571) 272-6052 or in his absence to the undersigned at (571) 272-7099.

This application is being referred to Technology Center AU 3679 for appropriate action by the Examiner in the normal course of business on the reply received.

David Bucci
Petitions Examiner
Office of Petitions

CC: Parick Sheldrake
CNH America
500 Diller Ave, MS 641
New Holland, PA 17557

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATTON BOGGS LLP
1801 CALFORNIA STREET
SUITE 4900
DENVER, CO 80202

Mail Date: 04/21/2010

Applicant	: Ofer Sneh	: DECISION ON REQUEST FOR
Patent Number	: 7662233	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/561,758	: OF WYETH
Filed	: 03/08/2007	:
		:

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.

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19 JAN 2006

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
1109 MCKAY DRIVE, M/S-41SJ
SAN JOSE CA 95131

In re Application of KELLY
Application No.: 10/561,783
PCT No.: PCT/IB04/01726
Int. Filing: 14 May 2004
Priority Date: 9 May 2003
Attorney Docket No.: GB03 0080 US
For: UNDERCURRENT SENSE ARRANGEMENT METHOD

DECISION ON

PETITION TO REVIVE

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 19 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $300 has been provided. The required petition fee of $1500 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of the Notification of Missing Requirements, indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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28 APR 2008

22428
FOLEY AND LARDNER LLP
Suite 500
3000 K Street NW
Washington DC 20007

In re Application of
ROMMENS *et al*
U.S. Application No.: 10/561,785
PCT No.: Unknown
Int. Filing Date: 25 June 2004
Priority Date:
Attorney Docket No.: 058951-0238
For: PRECISE BREEDING

COMMUNICATION

The PCT number listed on the transmittal letter (Form PTO-1390) and the priority date filed 21 December 2005 are invalid. The transmittal letter indicates that the PCT number is PCT/2004/017424. The priority date claimed is "2/20/2002" which is more than one year from the international filing date listed ("6/25/2004"). Applicants filed a second submission on 08 January 2007 which also lists an invalid PCT number and priority date on the transmittal letter.

Applicants must clarify the correct international application number and priority number and show how the papers filed 21 December 2005 were intended as the national stage of that international application.

A petition pursuant to 37 CFR 1.182 is required to correct the papers submitted. Applicants have **TWO (2) MONTHS** to respond. Extensions of time under 37 CFR 1.136(a) are available. Failure to respond will result in the **ABANDONMENT** of the application.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

19 AUG 2008

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22428
FOLEY AND LARDNER LLP
Suite 500
3000 K Street NW
Washington DC 20007

In re Application of
ROMMENS *et al*
U.S. Application No.: 10/561,785
PCT No.: Unknown
Int. Filing Date: 25 June 2004
Priority Date:
Attorney Docket No.: 058951-0238
For: PRECISE BREEDING

DECISION

This decision is in response to the petition filed 30 June 2008.

BACKGROUND

On 21 December 2005, applicants filed a national stage application listing the international application number on the transmittal letter (Form PTO-1390) as PCT/2004/017424 with a priority date of "2/20/2002.

On 28 April 2008, a communication was mailed informing applicants that the PCT number on the transmittal letter and the priority date was invalid. Applicants were requested applicants to clarify the correct international application number and priority number and show how the papers filed 21 December 2005 were intended as the national stage of that international application.

On 30 June 2008, applicants filed the subject petition.

DISCUSSION

Applicants petition to "request rectification of an incorrect International Application Priority Date inadvertently provided by Applicants upon entry into the U.S. National Phase on December 21, 2005." This request is treated as a petition under 37 CFR 1.182. The $400.00 petition fee has been charged to Deposit Account No. 19-0741 as authorized.

The Communication mailed 28 April 2008 noted that:

> The **PCT number listed on the transmittal letter** (Form PTO-1390) and the priority date filed 21 December 2005 are invalid. The transmittal letter indicates that the PCT number is PCT/2004/017424. The priority date

claimed is "2/20/2002" which is more than one year from the international filing date listed ("6/25/2004"). Applicants filed a second submission on 08 January 2007 which also lists an invalid PCT number and priority date on the transmittal letter.

Applicants must clarify the correct international application number and priority number and show how the papers filed 21 December 2005 were intended as the national stage of that international application. (Emphasis added).

In the petition filed 30 June 2008, applicants explain that the "inadvertently provided the International Application Priority Date as February 20, 2002 when the correct International Application Priority Date should have been provided is "June 27, 2003." However, applicants failed to address the problem of the invalid PCT number and have not demonstrated how the original papers filed 21 December 2005 were intended as the national stage of that international application.

Moreover, the transmittal letter accompanying the petition also recorded the international application as PCT/2004/017424. **This is not a valid international application number.**

For a grantable petition, applicants must respond to all of the problems outlined in the Communication mailed 28 April 2006.

CONCLUSION

For the reason discussed above, applicants' 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). **Failure to timely respond will result in the abandonment of the application.**

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

13 NOV 2008

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22428
FOLEY AND LARDNER LLP
Suite 500
3000 K Street NW
Washington DC 20007

In re Application of	:	
ROMMENS *et al*	:	
U.S. Application No.: 10/561,785	:	
PCT No.: PCT/US2004/017424	:	
Int. Filing Date: 25 June 2004	:	**DECISION**
Priority Date: 27 June 2004	:	
Attorney Docket No.: 058951-0238	:	
For: PRECISE BREEDING	:	

This decision is in response to the renewed petition filed 16 September 2008.

BACKGROUND

On 19 August 2008, a decision dismissing applicants' petition under 37 CFR 1.182 was mailed. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 16 September 2008, applicants filed a renewed petition under 37 CFR 1.182.

DISCUSSION

In the renewed petition, applicants indicate that it was their intention to file the subject application as the national stage of PCT/US2004/017424 "as evidenced by the Form PCT/IB304 also included with the application documents on December 21, 2005." Applicants also state that the priority date should be "June 27, 2004" not "February 20, 2002." Moreover, the correct international application number should be PCT/US2004/017424.

Applicants renewed petition has clarified the proper international application number and priority number. A review of original filing show that among the papers filed included a Form PCT/IB/304, a Form PCT/ISA/210 for PCT/US2004/017424, and the first page of the Information Disclosure Statement Under 37 CFR 1.56 listed the international application No. as PCT/US2004/017424. Applicants' statements in the renewed petition also indicate that the papers filed 21 December 2005 were intended as the national stage of PCT/US2004/017424.

As such, applicants have addressed the concerns noted in the decision mailed 19 August 2008.

CONCLUSION

For the reasons discussed above, applicants' renewed petition under 37 CFR 1.182 is hereby **GRANTED**.

USPTO records reflect that the above-captioned application is the national stage of PCT/US2004/017424 claiming priority to U.S. application No. 10/607,538 filed 27 June 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for further processing.

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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KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
Suite 400
WASHINGTON DC 20005

In re Application of Arai, Koichi et al Application No. 10/561,791 Filed: Dec. 21, 2005 Attorney Docket No. 050795 For: METHOD AND DEVICE FOR MOLDING WHEEL RIM HUMP PART	:	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program under 37 CFR 1.102(d), filed Dec. 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. Receipt of the IDS and a copy of Japanese patent publications filed on Dec. 21, 2005 are acknowledged. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen, at 571-272-4856.

All other inquiries concerning the examination or status of the application should be directed to David Bryant, SPE of Art Unit 3726, 571-272-4526.

The application is being forwarded to Alexander Taousakis, the examiner for action on the merits commensurate with this decision.

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

MAILED

JUL 29 2010

OFFICE OF PETITIONS

In re Application of :
Yasushi Washio, et al. :
Application No.: 10/561,802 : DECISION ON PETITION
Filed: December 22, 2005 :
Attorney Docket No.: SHIGA7.035APC :

This is a decision on the petition, filed June 3, 2010, requesting withdrawal of the holding of abandonment in the above-identified application under the provisions of 37 CFR 1.181 (no fee).

The petition is **GRANTED**.

The application was held abandoned for a failure to take appropriate action in a timely manner after the decision of March 29, 2010 by the Board of Patent Appeals and Interferences. A Notice of Abandonment was mailed on June 3, 2010.

Petitioner argues that the Notice of Abandonment issued prematurely, since a Request for Continued Examination (RCE) was filed within the period set for response to the decision by the Board.

A review of the record discloses that petitioner is correct. In view of the decision by Board of Appeals and Interferences on March 29, 2010, applicant had until June 1, 2010 to file a response to continue prosecution because May 29, 2010 was a Saturday and Monday, May 31 was a federal holiday. Since the RCE was filed on June 1, 2010, it is considered timely.

The Notice of Abandonment of June 3, 2010 was mailed in error and is hereby vacated.

The application is being referred to the Technology Center technical support staff of Art Unit 1795 for withdrawing the holding of abandonment and then for processing the June 1, 2010 RCE in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

17 MAR 2006

United States Patent and Trademark Office

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Vernois
8 Sentier des Laminaires
Arradon 56610
FRANCE

In re Application of	:	
Vernois	:	
Application No. 10/561,836	:	
PCT No.: PCT/FR04/01456	:	
Int. Filing Date: 10 June 2004	:	COMMUNICATION
Priority Date: 19 June 2003	:	
Atty. Docket No.: N/A	:	
For: Data Distributing Machine	:	
With Controlled Atmosphere	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 23 January 2006.

BACKGROUND

This international application was filed on 10 June 2004, claimed an earliest priority date of 19 June 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 13 January 2005. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 19 December 2005. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the required reply in the form of the basic national fee has been filed.

Regarding requirement (2), the petition fee has been paid.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

Appln. No. 10/561,836

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of the application under 35 U.S.C. 371(c)(1), (2) and (4) is **21 December 2005**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

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OFFICE OF PETITIONS

In re Application of :
Avraham **COHEN** :
Application No. 10/561,844 : DECISION ON PETITION
Filed: December 22, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. 032013-133 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 5, 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 the declaration of inventor Avraham Cohen, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

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.

Monica A. Graves
Petitions Examiner
Office of Petitions

14 JUN 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jean M. Dickman
Shook, Hardy & Bacon, LLP
2555 Grand Blvd.
Kansas City, MO 64108

In re Application of	:	
Sayood, et al.	:	
Serial No.: 10/561,889	:	
PCT No.: PCT/US04/19762	:	DECISION ON
Int. Filing Date: 21 June 2004	:	
Priority Date: 19 June 2003	:	PETITION
Attorney's Docket No.: UNVN.115325	:	
For: SYSTEM AND METHOD FOR SEQUENCE DISTANCE MEASURE FOR PHYLOGENETIC TREE CONSTRUCTION	:	UNDER 37 CFR 1.137(b)

This decision is responsive to the "PETITION FOR REVIVAL UNDER 37 C.F.R. § 1.137(b) OF PATENT APPLICATION DESIGNATION THE U.S. ABANDONED UNINTENTIONALLY" filed 25 January 2006.

BACKGROUND

On 21 June 2004, applicants filed international application PCT/US04/19762, which claimed priority of an earlier United States provisional application filed 19 June 2003. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 19 December 2005.

On 21 December 2005, applicants filed a transmittal letter for entry into the national stage in the United States, an IDS and the basic national fee. These papers were assigned Application No. 10/561,889.

On 25 January 2006, applicants filed the current petition along with a statement from Jean Dickman. The statement indicated that although the application papers were originally filed on 19 December 2005, they were inadvertently filed by first class mail instead of Express Mail.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied (1) by a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," (2) by a proper reply, (3) by the petition fee required by law (37 CFR 1.17(m)), and (4) if the international filing date of the application is before June 8, 1995, any petition to revive under 37 CFR 1.137(b) must be accompanied by a terminal disclaimer and small entity fee of $55

Applicants have provided the required statement, a proper reply and the petition fee. Therefore, the petition to revive is GRANTED.

CONCLUSION

The petition to revive the application abandoned under 35 U.S.C. 371(d) is **GRANTED** as to the National Stage in the United States of America.

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
Fax: (571) 273-0459

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Porter Wright Morris & Arthur
Richard M Mescher
41 South M Mescher
Columbus OH 43215

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OFFICE OF PETITIONS

In re Application of	:	
Michael Kelly	:	
Application No.: 10/561892	:	ON PETITION
Filing or 371(c) Date: 12/22/2005	:	
Attorney Dckt Number: 3998264-160705	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 24, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed August 24, 2007. Accordingly, the date of abandonment of this application is November 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee and the publication fee; (2) the petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

This application is being referred to Publishing Division for processing into a patent.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

24 JAN 2006

Commissioner for Patents
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Alexandria, VA 22313-1450
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PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
Intellectual Property and Standards
1109 McKay Drive, M/S-41SJ
San Jose, CA 95131

In re Application of :
RITTER *et al* :
U.S. Application No.: 10/561,895 :
PCT No.: PCT/IB2004/050765 :
Int. Filing Date: 25 May 2004 :
Priority Date: 27 May 2003 :
Attorney Docket No.: DE03 0189 US :
For: PUNCH-THROUGH DIODE AND :
METHOD OF PROCESSING SAME :

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 21 December 2005 is hereby **GRANTED** as follows:

The basic national fee and petition fee have been paid. Applicants' statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was provided. The surcharge fee of $130.00 was charged to Deposit Account No. 14-1270 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 25 May 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 21 December 2005.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT D. SHEDD
THOMSON LICENSING LLC
PO BOX 5312
PRINCETON, NJ 08543-5312

MAILED

MAR 10 2009

OFFICE OF PETITIONS

In re Application of :
Ingo Hutter :
Application No. 10/561,898 : ON PETITION
Filed: December 22, 2005 :
Attorney Docket No. PD030070 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 29, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 29, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 30, 2008. A Notice of Abandonment was mailed November 28, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This matter is being referred to Technology Center 2423 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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HEIMLICH LAW
5952 DIAL WAY
SAN JOSE, CA 95129

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APR 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Brian Dillon-Ferris :
Application No. 10/561,899 : DECISION ON PETITION
Filed: December 22, 2005 :
Attorney Docket No. WO04114171US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 15, 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 Notification of Defective Response (Notice), mailed August 10, 2007. The Notice set a period for reply of one (1) month from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) could be obtained. Accordingly, the application became abandoned on September 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a preliminary amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Office of Patent Application Papers for appropriate action by the Examiner in the normal course of business on the reply received October 10, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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01 AUG 2007

HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

In re Application of LEVIN et al.	:
Application No.: 10/561,933	: DECISION ON
PCT No.: PCT/IL04/00561	:
Int. Filing: 23 June 2004	: PETITION
Priority Date: 23 June 2003	:
Attorney Docket No.:2488.032	:UNDER 37 CFR 1.47(a)
For: TRANSDERMAL DELIVERY SYSTEM:	
FOR COSMETIC AGENTS	:

This is a decision on applicant's petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 27 March 2007, to accept the application without the signature of joint inventor Sergey Rudaev.

BACKGROUND

On 22 December 2005, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 23 January 2007, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 27 March 2007, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor Sergey Rudaev alleging that the non-signing inventor refused to sign.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(g), (2) factual proof that the non-signing joint inventor(s) refuses to execute

the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Petitioner satisfied Item (1) with the authorization to charge the $200 petition fee to applicant's deposit account.

With respect to Item (2) above, Petitioner provided a sworn statement of first-hand knowledge from Galit Levin, co-inventor. Mr. Levin states that on 26 June 2006, he sent a letter to the non-signing inventor Sergey Rudaev, including a copy of the patent application, declaration and power of attorney and assignment. This correspondence was delivered to Mr. Rudaev on 28 June 2006 as indicated by the acknowledgement at the bottom of the letter.

Mr. Levin also communicated with Mr. Rudaev via telephone on 09 March 2006, when Mr. Rudaev stated that "he will not execute the formal documents for the application and that he will refuse to sign any documents relating to TransPharma Medical Ltd. patent applications". The nonsigning inventor has not responded to Mr. Levin's correspondence. The action taken by petitioner is sufficient to demonstrate that a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/561,933 (specification, including claims, drawings, and declaration) to the nonsigning inventor for their signatures and that Mr. Rudaev, by his conduct, refuses to sign the application papers. Item (2) is satisfied.

Item (3) is satisfied with the submission of last known address of the non-signing inventor.

Item (4) is satisfied with the submission of the declaration executed by the joint inventors on behalf of the nonsigning inventor. The requirements of 37 CFR 1.497 (a) and (b) have been met and the declaration is acceptable as filed. Accordingly, it is ppropriate to accord the national stage application status under 37 CFR §1.47(a).

In sum, Petitioner has satisfied Items (1) - (4) above. For the reasons set forth above, the evidence submitted supports a finding that the nonsigning inventor refuses to sign the application at this time. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **GRANTED**.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 27 March 2007. The application has an international filing date of 23 June 2004 under 35 U.S.C. 363, and a date of 27 March 2007 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their respective last known address of record.

Also, a notice of the filing of this application will be published in the Official Gazette.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile (571) 272-0459

11 JAN 2007

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Alexandria, VA 22313-1450
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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

In re Application of :
SHIMIZU, Masayuki et al. :
Application No.: 10/561,960 :
PCT No.: PCT/JP2004/009085 :
Int. Filing Date: 22 June 2004 : DECISION
Priority Date: 23 June 2003 :
Attorney's Docket No.: P29023 :
For: DEVICE AND METHOD FOR BENDING, :
AND BENDING DIE :

This is a decision on applicants' 02 November 2006 submission to the United States Patent and Trademark Office.

BACKGROUND

On 22 March 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration, an English translation, the surcharge for late filing of the search fee, examination fee or oath or declaration and the processing fee for late filing of the English translation were required.

On 22 May 2006, applicants filed a declaration, a translation of the claims and the fees.

On 02 October 2006, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916) indicating that the first name of the fifth inventor did not match the published international application.

On 02 November 2006, applicants filed this response to the Notification, indicating that the declaration listing is correct and the discrepancy is the result of a transliteration error.

DISCUSSION

The explanation that the fifth inventor is "Hisashi Uto," that he is correctly listed on the declaration and that the incorrect listing of his name on the international application was the result of a transliteration error, is acceptable. MPEP 201.03.

However, the declaration is not a USPTO form and is not accompanied by a statement that the English text is an accurate translation of the foreign text. See 37 CFR 1.69. A statement that the English text is an accurate translation of the Japanese or a new declaration is required.

CONCLUSION

Applicant is required to comply with 37 CFR 1.69 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

27 JUN 2007

In re Application of :
SHIMIZU, Masayuki et al. :
Application No.: 10/561,960 :
PCT No.: PCT/JP2004/009085 :
Int. Filing Date: 22 June 2004 : DECISION
Priority Date: 23 June 2003 :
Attorney's Docket No.: P29023 :
For: DEVICE AND METHOD FOR BENDING, :
AND BENDING DIE :

This is a decision on applicants' 11 March 2007 submission to the United States Patent and Trademark Office.

BACKGROUND

On 11 January 2007, the Office mailed Decision, dismissing applicants' submission without prejudice, indicating that a statement that the English translation is an accurate translation of the Japanese text under 37 CFR 1.69 was required.

On 11 March 2007, applicants supplied a verification of translation.

DISCUSSION

Applicants have supplied a statement that the English text is an accurate translation of the Japanese.

CONCLUSION

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 USC 371(c)(1), (c)(2) and (c)(4) date of 22 May 2006.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Dirk Gandolph	: DECISION ON REQUEST FOR
Patent Number	: 7657109	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/561,984	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1077** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Dirk Gandolph	: DECISION ON REQUEST FOR
Patent Number	: 7657109	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/561,984	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1077** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HOFFMAN WARNICK LLC
75 STATE ST
14 FL
ALBANY, NY 12207

Mail Date: 04/20/2010

Applicant	: Denis Aubert	: DECISION ON REQUEST FOR
Patent Number	: 7620891	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/562,020	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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MOLINS & CO.
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SYDNEY NSW 2000 AU AUSTRALIA

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MAR 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Keith James Hensel	:	
Application No. 10/562,025	:	DECISION ON PETITION
Filed: December 22, 2005	:	
Attorney Docket No. BRE0308U	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed May 11, 2009. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on August 12, 2009. A Notice of Abandonment was mailed on December 15, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Additionally, 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, three- month extension of time fee submitted with the petition on January 20, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center 3742 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

HARNESS DICKEY & PIERCE, PLC
P.O. BOX 8910
RESTON, VA 20195

Applicant: Boltshouser
Appl. No.: 10/562,035
International Filing Date: June 17, 2004
Title: METHOD AND DEVICE FOR THE PRODUCTION OF A CAN BODY, AND CAN BODY
Attorney Docket: 37960-000111/US
Pub. No.: US 2007/0177962 A1
Pub. Date: August 2, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on October 15, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error in that the wrong specification, claims, figures and abstract were published.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed **within two months** from the date of the patent application publication. **This period is not extendable**." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication, received on October 15, 2007, was not timely filed under 37 CFR 1.221(b).

Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

due course, unless the application is allowed and the patent issues before the application is republished.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted and/or **a complete copy of the pre-grant publication**, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

0 9 MAY 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DINSMORE & SHOHL, LLP
1900 CHEMED CENTER
255 EAST FIFTH STREET
CINCINNATI OH 45202

In re Application of
TAKANO et al.
Application No.: 10/562,043
PCT No.: PCT/JP04/09057
Int. Filing Date: 21 June 2004
Priority Date: 23 June 2003
Attorney Docket No.:24082-9
For: HEALTH CARE SYSTEM, BIOLOGICAL INFORMATION TERMINAL

DECISION ON REQUEST

UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Response to Notification of Missing Requirements under 35 U.S.C. 371", treated as a petition to correct inventorship under 37 CFR 1.497(d), filed on 18 September 2006 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to add JAMES MILLER and STEVEN SUTPHEN as inventors in the above referenced application. The requisite $130 petition fee was paid.

BACKGROUND

On 23 December 2005, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee.

On 10 July 2005, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 18 September 2006, applicant filed a response to the Notification of Missing Requirements along with a petition for correction of inventorship to add JAMES MILLER and STEVEN SUTPHEN as inventors. In addition to the $130 petition fee, Petitioner provided the statement of the inventors Miller and Sutphen in support of the correction of inventorship under 37 CFR 1.497(d). An executed declaration was provided.

DISCUSSION

37 CFR 1.497(d) states, in part: If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

> (1) A statement from each person being added as an inventor . . . that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in § 1.17(i); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Applicant provided statements signed by JAMES MILLER AND STEVEN SUTPHEN stating that the error in inventorship "occurred without deceptive intention on my part." This statement satisfies item (1) of 37 CFR 1.497(d).

The processing fee of $130.00 has been paid, satisfying Item (2) above.

With regard to Item (3), the written consent of the assignees, University of Alberta and Seiko Instruments, consenting to the addition of JAMES MILLER AND STEVEN SUTPHEN as inventors in this application was submitted. Item (3) above is satisfied.

Accordingly, applicant has met all of the requirements of 37 CFR 1.497(d) to add JAMES MILLER AND STEVEN SUTPHEN as co-inventors in the above-identified international application.

However, with regard to the declaration submitted, it appears to be a composite declaration created from the combination of separately executed declarations. The declaration is not properly executed because the declaration contains three Page 3s. It appears that either the attorney pieced together separate complete declarations into one composite declaration or that the inventors were presented with an incomplete declaration. While it is acceptable for applicants to execute separate copies of the declaration, the entire declaration, as executed by the inventor, must be submitted. "Where individual declarations are executed, they must be submitted as individual declaration rather than combined into one declaration." See MPEP 201.03. What is required is one declaration where all inventors have signed or separate complete declarations. The requirements of 37 CFR 1.497 (a) and (b) have not been met and the declaration is unacceptable as filed.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to add JAMES MILLER AND STEVEN SUTPHEN as inventors are hereby **GRANTED**.

The declaration as submitted is not in compliance with 37 CFR 1.497(a) and (b). Applicant must submit a newly executed declaration, in compliance with 37 CFR 1.497(a) and (b).

Applicant's response must be filed within TWO (2) MONTHS from the mail date of this decision. No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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SEP 11 2008

Applicant: Cope
Appl. No.: 10/562,044
International Filing Date: June 28, 2004
Title: METHOD AND APPARATUS FOR THE CREATION, LOCATION AND FORMATTING OF DIGITAL CONTENT
Attorney Docket No.: 0090227
Pub. No.: US 2007/0162465 A1
Pub. Date: July 12, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 13, 2007, for the above-identified application

The request is dismissed.

Applicant requests that the application be republished because the patent application publication contains material errors, wherein the substituted claims were not published.

37 CFR 1.221 (b) is applicable "only when the Office makes **a material mistake** which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication, received on September 13, 2007, was not timely filed under 37 CFR 1.221(b).

The error noted by requestor with respect to the substitute claims is not an Office error. The patent application publication does not include a mistake regarding the failure to include improperly submitted substitute claims. The substitute claims 1-30 do not comply with Sec.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

1.121 and 1.125, in that the claims do not have the proper instructions or identifiers. The patent application publication does not include a mistake regarding the failure to include the improper preliminary amendment to the claims in the publication by the Office because patent application publications are not required to include preliminary amendments, according to 37 CFR 1.215(a), [2] which says the following, in part:

> (a) . . . The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. **The patent application publication may also be based upon amendments** to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b), amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun. (emphasis added)

Furthermore, while the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicants' request for a corrected patent application publication on September 13, 2007, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

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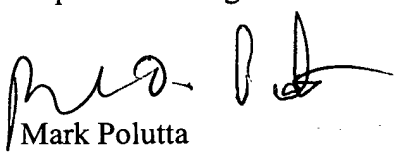
[2] Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

11 MAY 2007

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In re Application of MARINO et al	:	
U.S. Application No.: 10/562,058	:	
PCT Application No.: PCT/US2004/023704	:	
Int. Filing Date: 23 July 2004	:	DECISION
Priority Date Claimed: 25 July 2003	:	
Attorney Docket No.: V7500.0003/P003	:	
For: APPARATUS FOR AND METHOD OF USING A DIVERSITY ANTENNA	:	

This is in response to applicant's "Petition Under 37 C.F.R. 1.47" filed 29 January 2007.

BACKGROUND

On 23 July 2004, applicant filed international application PCT/US2004/023704, which claimed priority of an earlier United States application filed 25 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 25 January 2006.

On 22 December 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 28 July 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 29 January 2007, applicant filed the present petition under 37 CFR 1.47.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors each on his own behalf and on behalf of the nonsigning inventor

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor William Carpenter refuses to sign the application papers. Although the petition contains sufficient evidence of Mr. Carpenter's refusal to cooperate (see affidavit of Jeremy Cubert, ¶5), the petition does not illustrate that a bona fide attempt was made to present a complete copy of the application papers (including specification, claims, drawings, and oath/declaration) to Mr. Carpenter prior to his refusal. Mr. Cubert's statement only demonstrates that Mr. Carpenter was presented with declaration and assignment documents. Petitioner is advised that if it cannot be shown that a complete copy of the application papers was presented to Mr. Carpenter prior to the 09 January 2007 refusal, then petitioner must demonstrate both the presentation of a complete copy of the application papers to Mr. Carpenter and Mr. Carpenter's refusal to sign subsequent to such presentation.

With regard to item (3) above, applicant is advised that effective 22 November 2004, the fee for a petition under 37 CFR 1.47 increased to $200.00. Any deficiency in the petition fee will be charged to Deposit Account No. 04-1073 as authorized in the petition.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

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Adjustment date: 05/11/2007 SBASHEIR
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17 JUL 2007

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In re Application of MARINO et al :
U.S. Application No.: 10/562,058 :
PCT Application No.: PCT/US2004/023704 :
Int. Filing Date: 23 July 2004 : DECISION
Priority Date Claimed: 25 July 2003 :
Attorney Docket No.: V7500.0003/P003 :
For: APPARATUS FOR AND METHOD OF :
USING A DIVERSITY ANTENNA :

This is in response to applicant's "Renewed Petition Under 37 C.F.R. 1.47(A)" filed 02 July 2007.

BACKGROUND

On 23 July 2004, applicant filed international application PCT/US2004/023704, which claimed priority of an earlier United States application filed 25 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 25 January 2006.

On 22 December 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 28 July 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 29 January 2007, applicant filed a petition under 37 CFR 1.47(a).

On 11 May 2007, this Office mailed a decision dismissing the 29 January 2007 petition.

On 02 July 2007, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Petitioner has previously satisfied items (1), (3), and (4) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor William Carpenter refuses to sign the application papers. The petition contains sufficient evidence of Mr. Carpenter's refusal to cooperate (see affidavit of Jeremy Cubert, ¶5) and adequately demonstrates that a bona fide attempt was made to present a complete copy of the application papers (including specification, claims, drawings, and oath/declaration) to Mr. Carpenter prior to his refusal (see affidavit of Richard Campero, Exhibits 1 and 3). Thus, it can be concluded with reasonable certainty that Mr. Carpenter refuses to join in the application.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 23 July 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 29 January 2007.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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JUN 0 6 2008

Applicant: Romero et al.
Appl. No.: 10/562,079
International Filing Date: June 23, 2004
Title: CYTOTOXIC DEPSIPEPTIDES
Attorney Docket No.: 14700-008US1 FUSP 288234
Pub. No.: US 2007/0082878 A1
Pub. Date: April 12, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 11, 2007, for the above-identified application.

Applicant requests that the application be republished because the patent application publication contains material errors wherein on page 6 of the specification "NO_2" was erroneously printed as "N_2" and on page 9, paragraph [0094] "$\beta T1$" should have been printed as "$\Delta T1$".

The request is **granted**.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted, and/or **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.

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Office of the Deputy Commissioner
for Patent Examination Policy