25 JAN 2007

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Brinks Hofer Gilson & Lione
P O Box 10395
Chicago IL 60610

In re Application of
LAPPE et al..
Application No.: 10/562,083
PCT No.: PCT/EP04/06858
Int. Filing Date: 24 June 2004
Priority Date: 27 June 2003
Attorney's Docket No.: 11336.1235
For: A METHOD AND SYSTEM FOR COORDINATING THE ROUTES OF A PLURALITY OF DEVICES

DECISION ON

PETITION

UNDER 37 CFR 1.47(b)

This is a decision on petition under 37 CFR 1.47(b), filed 02 November 2006 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing inventors Dirk Lappe, Stefan Wolf, Hermann Dibos and Guido Hovestadt. Petitioner requested a five month extension of time, which is granted.

BACKGROUND

On 24 June 2004, applicant filed international application No. PCT/EP04/06858 which claimed a priority date of 27 June 2003, and which designated the United States. A copy of the international application was communicated to the United States by the International Bureau on 06 January 2005.

On 23 December 2005, within 30 months from the priority date, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: basic national filing fee.

On 24 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b) must be furnished within two months from the mail date of the notice or the application would be abandoned. Extensions of time were available.

On 02 November 2006, petitioner filed the instant petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was accompanied by a declaration of Dr. Tim Bast and copies of German Claiming Letters signed by the inventors.

DISCUSSION

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

showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Petitioner has satisfied Item (1) with payment of the requisite petition fee and Item (3) with a statement of the last known addresses of the inventors.

As for Item (4), petitioner has provided a declaration, in compliance with 37 CFR 1.497(a) and (b) and executed on behalf of the inventors by the 37 CFR 1.47(b) petitioner and is required. Item (4) is satisfied.

With regard to Item (2), a statement by Dr. Tim Bast, European Intellectual Property Counsel for Harmon International Industries, Inc. was provided. Dr. Bast indicates that Janine Doss, an Assistant, contacted the nonsigning inventors to obtain their signatures on the declaration documents. A first hand statement from Ms. Doss is required. Also copies of the correspondence and emails to the nonsigning inventors were not provided and are required to prove the inventors refused to sign. Proof of delivery of the application and the declaration should be submitted as part of the renewed petition under 37 CFR 1.47(b). No attempts to contact the nonsigning inventor via telephone, current employers, etc. were discussed. Petitioner does not clearly demonstrate that the nonsigning inventors are refusing to sign this application.

Petitioner must provide proof that the inventor was presented with a copy of the application papers (including specification, claims, and any drawings) in order to conclude that the inventor refuses or is unavailable to sign the application. See MPEP. 409.03(d), which states in pertinent part, "a refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers." Here, there is no clear evidence from someone having first hand knowledge that nonsigning inventors were presented with a copy of the application papers and that they are refusing to sign the application at issue. Petitioner must present sufficient evidence to conclude that the inventors refuse to sign the application. The statement of someone having first hand knowledge of the facts is required. See MPEP. 409.03(d) for further instructions. Item (2) is not satisfied.

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

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that
>
> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application has been assigned, a copy of the assignment (in the English Language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324)....
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone

with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.

A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

No assignment signed by the inventor was attached to the petition to prove this interest.

Where there is no written agreement to assign or the invention has not been assigned, petitioner must demonstrate a proprietary interest by an appropriate legal memorandum. No such memorandum accompanied the petition.

Here Petitioner, in attempting to prove that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the subject matter to justify filing the application, provided copies of German Claiming Letters. However, these letters do not reference the above identified U.S. application or PCT application. A copy of the German statute and an English translation thereof is required. Where the employee (nonsigning inventor) agreed to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment, a copy of the employee agreement must be provided along with a firsthand knowledge statement that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant and that all conditions were met is required. When such an agreement is relied on, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant. Item (5) is not satisfied. In the alternative, a proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum. See Section 409.03(f).

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

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

CONCLUSION

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

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

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

27 SEP 2007

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Brinks Hofer Gilson & Lione
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Chicago IL 60610

In re Application of LAPPE et al.. Application No.: 10/562,083 PCT No.: PCT/EP04/06858 Int. Filing Date: 24 June 2004 Priority Date: 27 June 2003 Attorney's Docket No.: 11336.1235 For: A METHOD AND SYSTEM FOR COORDINATING THE ROUTES OF A PLURALITY OF DEVICES	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This is a decision on applicant's "Response to Dismissal of the Petition under 37 CFR 1.47(b)", filed 23 July 2007 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing inventors Dirk Lappe, Stefan Wolf, Hermann Dibos and Guido Hovestadt. Petitioner requested a four month extension of time, which is granted.

BACKGROUND

On 24 June 2004, applicant filed international application No. PCT/EP04/06858 which claimed a priority date of 27 June 2003, and which designated the United States. A copy of the international application was communicated to the United States by the International Bureau on 06 January 2005.

On 23 December 2005, within 30 months from the priority date, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: basic national filing fee.

On 24 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b) must be furnished within two months from the mail date of the notice or the application would be abandoned. Extensions of time were available.

On 02 November 2006, petitioner filed a petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b).

On 25 January 2007, a decision dismissing the petition was mailed to applicant, indicating that the requirements of 37 CFR 1.47(b) had not been satisfied.

On 23 July 2007, applicant filed the instant response along with four declarations executed by the previously nonsigning inventors.

DISCUSSION

A review of the declarations reveals that the declarations identify and are executed by all

the previously nonsigning inventors, and state the residency, citizenship and mailing address of each of these inventors. Thus, the declarations are acceptable and the requirements of 37 CFR 1.497(a) and (b).

The renewed petition under 37 CFR 1.47(b) is considered moot as declarations executed by the previously unavailable inventors have been submitted and are acceptable under 37 CFR 1.497(a) and (b).

CONCLUSION

For the above reasons, the renewed petition under 37 CFR 1.47(b) is considered **MOOT**. The declarations executed by the inventors and submitted on 23 July 2007 are in compliance with 37 CFR 1.497(a) and (b) and are acceptable.

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **27 July 2007.**

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

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

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HARMAN - BRINKS HOFER CHICAGO
BRINKS, HOFER, GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

MAILED

JUL 27 2009

OFFICE OF PETITIONS

In re Application of :
Dirk Lappe, et al. :
Application No. 10/562,083 : DECISION ON PETITION
Filed: July 23, 2007 : TO WITHDRAW
Attorney Docket No. 11336/1235 (P01040US) : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others

The request cannot be approved because the practitioner(s) requesting the withdrawal have not certified that they have (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment; (2) deliver to the client or duly authorized representative of the client papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond. The failure to do so may subject the practitioner to discipline. It is also noted that false certification may violate a practitioners' duty under 37 CFR 10.23(b)(4) and (b)(5).

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on July 6, 2009 does not include the reel and frame number or a proper chain in title.

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

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

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

Attachment: Blank copy of PTOL/SB/83 Form

cc: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL INDUSTRIES, INCORPORATED
8500 BALBOA BOULEVARD
NORTHRIDGE, CA 91329

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19 SEP 2008

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CLARIANT CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
4000 MONROE ROAD
CHARLOTTE NC 28205

In re Application of	:	
LEINWEBER et al.	:	
Application No.: 10/562,097	:	DECISION ON SUBMISSION
PCT No.: PCT/EP04/06651	:	
Int. Filing Date: 19 June 2004	:	
Priority Date: 02 July 2003	:	
Attorney Docket No.: 2003DE430	:	
For: ALKOXYLATED DENDRIMERS AND USE	:	
THEREOF AS BIODEGRADABLE DEMULSIFIERS	:	

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371. Applicant submitted an executed declaration in the above referenced application filed in the United States Patent and Trademark Office on 21 December 2005.

BACKGROUND

On 21 December 2005, applicant filed a transmittal letter concerning a filing under 35 U.S.C. 371 accompanied by the basic national fee and an executed declaration. The published international application identified the fourth inventor as Heidi Grundner. However, the declaration identified the fourth inventor as Heidi Rausch and was executed as such.

DISCUSSION

A review of the application file reveals that the given name of the applicant as listed on the published international application is "Heidi Grundner." The declaration, filed on 21 December 2005, is signed by "Heidi Rausch". The executed declaration is not in compliance with 37 CFR 1.497(a) and (b) as the declaration does not name the inventive entity identified in the published international application. Thus, the declaration does not satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

It does not appear that applicant filed a request under PCT Rule 92*bis* to change the name of the inventor as no Notification of the Recording of a Change (Form PCT/IB/306) has been submitted which indicates that the name change was accepted. Should applicant wish to change the fourth inventor's name to Rausch, a petition under 37 CFR 1.182 is required. See MPEP §605.04(c).

CONCLUSION

The declaration of inventors submitted by applicants on 21 December 2005 is not in compliance with 37 CFR 1.497(a) and (b) and is unacceptable.

A petition under 37 CFR 1.182 is required. The application will be held in the PCT Legal Office to await applicant's further reply.

Applicant must respond within **ONE (1) MONTH** from the mail date of this decision.

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

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

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

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07 FEB 2006

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
Intellectual Property & Standards
1109 McKay Drive, M/S41-SJ
San Jose, CA 95131

In re Application of:	:	
DEANE, Steven, C., et al.	:	DECISION ON PETITION FOR
U.S. Application No.: 10/562,104	:	REVIVAL OF ABANDONED
PCT No.: PCT/IB2004/001860	:	APPLICATION UNDER
International Filing Date: 28 May 2004	:	37 CFR 1.137(b)
Priority Date: 06 June 2003	:	
Attorney's Docket No.: GB03 0088 US1	:	
For: ACTIVE MATRIX DISPLAY DEVICE	:	

The petition for revival under 37 CFR 1.137(b) filed 22 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 basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that the petition was accompanied by an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 14-1270 will be charged the $130 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 22 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

UNITED STATES DEPARTMENT OF COMMERCE
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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Lachezar Komitov	: DECISION ON REQUEST FOR
Patent Number	: 7575788	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/562,118	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **706** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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: 05/17/2010

Applicant : Lachezar Komitov
Patent Number : 7575788
Issue Date : 08/18/2009
Application No: 10/562,118
Filed : 12/23/2005

: 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 **733** 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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DR. MARK M. FRIEDMAN
C/O BILL POLKINGHORN - DISCOVERY DISPATCH
9003 FLORIN WAY
UPPER MARLBORO, MD 20772

MAILED

JUL 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Ziv Karni, et al.	:	
Application No. 10/562,135	:	DECISION GRANTING PETITION
Filed: December 23, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2922/14	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 14, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 3739 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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

MAILED

MAR 26 2010

OFFICE OF PETITIONS

In re Application of	:	
Sung-Nack Lee	:	
Application No. 10/562,152	:	DECISION ON PETITION
Filed: February 21, 2008	:	TO WITHDRAW
Attorney Docket No. 0662-0199PUS1	:	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 6, 2010.

The request is **APPROVED**.

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

The request was signed by James T. Eller, Jr. 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 correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Notice of Allowability action mailed February 23, 2010 that requires a reply from the applicant.

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **AJOU MEDICS CO., LTD.**
4th Floor, Dongkwan Bldg.
1566-2, Seocho-dong, Seocho-gu
Seoul, 137-874
Republic of Korea

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/562,152	02/21/2008	Sung-Nack Lee	0662-0199PUS1

CONFIRMATION NO. 6578

POWER OF ATTORNEY NOTICE

2292
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Date Mailed: 03/25/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/06/2010.

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

/tsjohnson/

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

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

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OFFICE OF PETITIONS

In re Application of :
IKENAKA, et al. :
Application No. 10/562,156 : DECISION GRANTING PETITION
Filed: December 23, 2005 : UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. **02860.1014** :

This is a decision on the petition, filed May 1, 2008, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment. *See* 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

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FEB 03 2010

In re Patent No. 7,600,958 :
Issue Date: October 13, 2009 :
Application No. 10/562,159 : ON PETITION
Filed: December 23, 2005 :
Attorney Docket No. 49727 :

This is a decision on the petition filed November 12, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

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.

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29 DEC 2006

Accenture Chicago 28164
BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, IL 60610

In re Application of
GAUTHEREON, Pascal J. *et al*
U.S. Application No.: 10/562,185
PCT No.: PCT/AU04/00859
Int. Filing Date: 28 June 2004
Priority Date: 26 June 2003
Attorney Docket No.: 10022-802
For: SYSTEM AND METHOD FOR INVESTING FUNDS

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Petition Under 37 C.F.R. §1.47(b)" ("Pet.") filed on 22 November 2006 which is treated under 37 CFR 1.47(a).

BACKGROUND

On 27 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 that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee of $130.00 must be provided. Applicants were given two months to respond.

On 22 November 2006, applicants submitted a response which was accompanied by, *inter alia*, the subject petition; a declaration signed by three of the four co-inventors; a "Declaration of Cinzia Trantino" ("Decl."); the petition and surcharge fee; a five-month extension and fee; and authorization to charge any additional fee to Deposit Account No. 23-1925.

DISCUSSION

Petitioners claim that Mr. Mark McDougall "refuses to execute a declaration" in the above-captioned application. Thus, a petition under 37 CFR 1.47(a) was submitted in response to the Form PCT/DO/EO/905 mailed 27 April 2006.

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the nonsigning inventor refuses to execute the application or cannot be located; (3) a statement of the last known address of the nonsigning inventor; (4) and an oath or declaration executed by the signing joint

inventor on his behalf and on behalf of the nonsigning joint inventor.

Concerning item (1), the $200.00 petition fee has been charged to counsel's Deposit Account as authorized.

With regard to item (3), the 37 CFR 1.47(a) applicants listed the last known address of the nonsigning inventor as:

40 Union Street
Windsor, Victoria
Australia

Regarding item (2), applicants provided a declaration by Cinzia Trantino who states that she received an email from the Human Resource Department of Accenture, Australia on 26 October 2006 containing the address of the nonsigning inventor, Mark McDougall. She then attempted to contact Mr. McDougall by telephone that day to no avail. Decl. at ¶ 8. After further attempts proved fruitless, Ms. Trantino states that an investigator went to that address but could not locate anyone at home. Ms. Trantino states that a neighbor indicated to the investigator that Mr. McDougal and family might be on vacation. *Id.* at ¶ 12. Ms. Trantino concludes by claiming that she attempted to contact Mr. McDougall via telephone from 31 October 2006 to 15 November 2006 but each call was unanswered. *Id.* at ¶ 14. No documentary evidence was provided.

This evidence is insufficient to meet item (2) of 37 CFR 1.47(a).

There is no evidence that Mr. McDougall received the documents and is refusing to cooperate. Further, it is not clear if Mr. McDougall is on vacation and only temporarily unavailable, or he has moved again. Nonetheless, the period in question from 31 October 2006 to 15 November 2006 is too short to conclude that the nonsigning inventor cannot be located. Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

> **The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. . . .**

The 37 CFR 1.47(a) applicants will be given an additional two months (with extensions available) to submit an executed declaration by Mr. McDougall, or determine whether Mr. McDougall refuses to cooperate, or show that despite their diligent efforts, Mr. McDougall cannot be located. Copies of any documentary evidence such as copies of the letters mailed, postal receipts etc., **must** be submitted with any renewed petition.

For the reasons listed above, item (2) is not satisfied.

Concerning item (4), petitioners included a declaration signed by three of the four joint inventors listed on the international publication. The nonsigning co-inventor's name, residence, post office address and citizenship are recorded on the declaration.

Regardless, the declaration is unacceptable. Applicants submitted a declaration consisting of one first page, two Page 2's and one Page 3. Applicants must submit a complete copy of each declaration signed by each co-inventor. For this reason, item (4) of 37 CFR 1.47(a) is also 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

Tel.: (571) 272-3302

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0 8 MAY 2007

Accenture Chicago 28164
BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, IL 60610

In re Application of
GAUTHEREON, Pascal J. *et al*
U.S. Application No.: 10/562,185
PCT No.: PCT/AU04/00859
Int. Filing Date: 28 June 2004
Priority Date: 26 June 2003
Attorney Docket No.: 10022-802
For: SYSTEM AND METHOD FOR INVESTING FUNDS

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on the papers filed on 01 February 2007 which are treated as a renewed petition under 37 CFR 1.47(a).

BACKGROUND

On 29 December 2006, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 01 February 2007, applicants filed the renewed petition which was accompanied by a declaration executed by all named inventors.

DISCUSSION

Applicants previously claimed that Mr. Mark McDougall refused to execute a declaration in the above-captioned application. As such, a petition under 37 CFR 1.47(a) was submitted. However, applicants failed to show that Mr. McDougall refused to cooperate. Moreover, the declaration filed on his behalf by the other inventors was not in compliance with 37 CFR 1.497(a) and (b).

In the renewed petition, applicants submitted a declaration executed by all the inventors including the nonsigning inventor, Mr. McDougall. 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**.

The declaration filed 01 February 2007 complies 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 28 June 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 01 February 2007.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

Mail Date: 04/20/2010

Applicant	: Tadafumi Hirose	: DECISION ON REQUEST FOR
Patent Number	: 7597340	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/562,216	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/28/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **496** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

11 JAN 2008

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WEST PALM BEACH FL 33402-3188

In re Application of:
BISCHOF, Markus, et al.
U.S. Application No.: 10/562,234
PCT No.: PCT/EP2004/004827
International Filing Date: 06 May 2004
Priority Date: 25 June 2003
Atty Docket No.: 3926.222
For: METHOD FOR TRIGGERING RADICAL POLYMERIZATION REACTIONS

DECISION ON PETITION

This decision is issued in response to the "Petition To Withdraw Holding Of Abandonment" filed 24 October 2007. No petition fee is required.

BACKGROUND

On 06 May 2004, applicants filed international application PCT/EP2004/004827. The international application claimed a priority date of 06 May 2004, 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 entry into the U.S. national stage and submission of the basic national fee was thirty months from the priority date, i.e., 25 December 2005.

On 21 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 and a translation of the international application into English.

On 04 October 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 was required.

On 10 September 2007, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a timely response to the Notification Of Missing Requirements.

On 24 October 2007, applicants filed the Petition To Withdraw Holding Of Abandonment considered herein. The petition asserts that, on 16 October 2007, applicants filed via facsimile a timely response to the Notification Of Missing Requirements that included a fully

executed declaration. Copies of the materials purportedly filed on 16 October 2007, and the facsimile confirmation report for such transmission, are included with the petition.

DISCUSSION

The present petition states that a "Response To Notice To File Missing Parts" including two executed declarations was filed by facsimile on 16 October 2006. A copy of the materials purportedly filed on 16 October 2006, as well as the "Confirmation Report" generated by applicants' facsimile machine with respect to this submission, are included with the petition.

The materials purportedly filed on 16 October 2006 include: (1) a "Transmittal Form" that identifies the present application, itemizes the attached materials (including the executed declaration), and bears a "Certificate Of Transmission/Filing" dated 16 October 2006 and executed by Stephan A. Pendorf; (2) a two-page document entitled "Response To Notice To File Missing Parts" that identifies the present application, itemizes the accompanying materials (including the executed declaration), and bears a "Certificate Under 37 CFR 1.8(a)" dated 16 October 2006 and executed by Stephen A. Pendorf; (3) two executed declarations (each two-pages); a copy of the Notification Of Missing Requirements (two-pages); and a "Fax Cover Sheet."

37 CFR 1.8(b) states the following:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

With regard to item (1) above, the present petition was promptly filed.

With regard to item (2) above, the present petition includes a copy of the previously transmitted correspondence which, as noted above, bears a certificate of transmission.

With regard to item (3) above, the present petition includes a copy of the sending unit's report confirming transmission to the USPTO facsimile number of a ten-page submission in the present application on 16 October 2006, and the petition is signed by Stephan A. Pendorf, the same person who signed the certificates of transmission contained in the materials filed 16

October 2006 (and a person who would therefore be presumed to have personal knowledge of such transmissions). The statements in the petition, in combination with the facsimile confirmation report, satisfy the requirements of item (3).

Based on the above, the present petition satisfies the requirements of 37 CFR 1.8(b). Accordingly, the materials accompanying the present petition (including the executed declarations) are appropriately treated, for purposes of timeliness, as having been filed on 16 October 2006 as a timely response to the Notification of Missing Requirements mailed 04 October 2006. It is noted that, for all other purposes, these materials will be treated as having been filed on 24 October 2007, the filing date of the present petition (see 37 CFR 1.8(a)).

The Notification of Abandonment mailed 24 October 2007, based as it was on applicants' purported failure to file a timely response to the Notification Of Missing Requirements mailed 04 October 2007, is appropriately vacated.

CONCLUSION

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

Pursuant to 37 CFR 1.8, for purposes of timeliness, the materials accompanying the present petition, including the executed declarations, are treated as having been submitted on 16 October 2006 as a timely response to the Notification Of Missing Requirements mailed 04 October 2006.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 24 October 2007 is hereby **VACATED**.

This application is being returned to the National Stage Processing Branch of the International Division for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 24 October 2007.

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

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K&L Gates LLP
P.O. Box 1135
CHICAGO IL 60690

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OFFICE OF PETITIONS

In re Application of :
Clara L. GARCIA-RODENAS et al. :
Application No. 10/562,243 : DECISION ON PETITION
Filed: December 22, 2005 :
Attorney Docket No. **3712036.00694** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 27, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 17, 2009, which set a shortened statutory period for reply of three (3) months. A three (3) months extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 20, 2009.

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

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

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

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

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

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Please see attached PTOL-303

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/562,243	**Applicant(s)** GARCIA-RODENAS ET AL.	
	Examiner Brian J. Gangle	**Art Unit** 1645	

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

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

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *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 cancéling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *11,17 and 18*.
   Claim(s) withdrawn from consideration: *1-10,12,13,15,16,19 and 20*.

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: _____.

/Robert B Mondesi/
Supervisory Patent Examiner, Art Unit 1645

Continuation of 3. NOTE: The new limitations added to claim 11 raise new matter issues as well as requiring a new search.

29 JAN 2007

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Fish & Richardson, PC
P.O. Box 1022
Minneapolis, MN 55440-1022

In re Application of
SHAFER, et al.
Application No.: 10/562,257
PCT No.: PCT/EP04/14219
Int. Filing Date: 14 December 2004
Priority Date: 15 December 2003
Attorney Docket No.: 17979-034US1 04157PUS
For: OBJECTIVES AS A MICROLITHOGRAPHY PROJECTION OBJECTIVE WITH AT LEAST ONE LIQUID LENS

DECISION ON PETITION

UNDER 37 CFR 1.497(d)

This decision is in response to applicant's "Request to Correct Inventorship Under 37 C.F.R. 1.48(a)(1)" filed 04 December 2006 in the United States Patent and Trademark Office (USPTO). The petition is being treated under 37 CFR 1.497(d). Applicant has provided payment of the $130.00 petition fee.

BACKGROUND

On 14 December 2004, applicant filed international application PCT/EP04/14219, which claimed priority of an earlier application filed 15 December 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 15 June 2005.

On 21 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); an executed declaration and a preliminary amendment.

On 06 July 2006, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903).

On 04 December 2006, applicant filed the present petition to add Wolfgang Singer as an inventor to the present application.

DISCUSSION

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

(1) a petition including a statement from each person being added or deleted as an inventor

that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

(3) the fee set forth in 37 CFR 1.17(h); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Applicant satisfied all four items listed above and it is proper to grant applicant's request at this time.

CONCLUSION

For the reasons above, applicant's request under 37 CFR 1.497(d) is **GRANTED**.

The Form PCT/DO/EO/903 mailed 06 July 2006 is hereby **VACATED**.

This application has an international application filing date of 14 December 2004 and will be given a date of **04 December2006** 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

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Commissioner for Patents
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

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

In re Application of :
David Shafer et al :
Application No. 10/562,257 : ON PETITION
Filed: December 4, 2006 :
Attorney Docket No. 17979-034US1 0415PUS

This is a decision on the petition, filed June 27, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 8, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 10/7/08 Paper No.: _____

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction for Appl. No.: 10562257 Patent No : 7385764

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Valerie Jacks
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

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

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

Comments: _____

/Ricky Mack/
SPE

2873
Art Unit

PAGE 1/1 * RCVD AT 4/1/2009 4:46:11 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/16 * DNIS:2709928 * CSID: * DURATION (mm-ss):00-58

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P.O. Box 1450
Alexandria, VA 22313-1450
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20 JAN 2006

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
1109 MCKAY DRIVE, M/S-41SJ
SAN JOSE CA 95131

In re Application of GREEN
Application No.: 10/562,293
PCT No.: PCT/IB03/03477
Int. Filing: 06 August 2003
Priority Date: 20 August 2002
Attorney Docket No.: GB02 0136 US
For: THIN FILM TRANSISTOR

DECISION ON

PETITION TO REVIVE

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 22 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. The 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 22 December 2005.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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24 JAN 2006

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
Intellectual Property and Standards
1109 McKay Drive, M/S-41SJ
San Jose, CA 95131

In re Application of :
GAMAND, Patrice :
U.S. Application No.: 10/562,295 :
PCT No.: PCT/IB2004/002022 :
Int. Filing Date: 16 June 2004 :
Priority Date: 20 June 2003 :
Attorney Docket No.: FR03 0067 US :
For: OPTIMIZED MULTI-APPLICATION :
ASSEMBLY :

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 22 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 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.

Applicant has 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 22 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

MERCK AND CO., INC
P O BOX 2000
RAHWAY NJ 07065-0907

In re Patent No. 7,476,665	:	
Burgey et al.	:	DECISION DISMISSING
Application No. 10/562,297	:	REQUEST FOR
Issue Date: January 13, 2009	:	RECONSIDERATION OF
Filed: December 22, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 21382YP	:	UNDER 37 CFR 1.705

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d), filed on January 29, 2009. Patentee requests that the determination of patent term adjustment be corrected from two hundred thirty-four (234) days to two hundred fifty-six (256) 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 234 days.

BACKGROUND

On September 2, 2008, the Office mailed a notice that the initial determination of patent term adjustment under 35 U.S.C. 154(b) to date is 236 days. On January 13, 2009, the application matured into U.S. Patent No. 7,476,665, with a revised patent term adjustment of 234 days. The Office determined that the 17 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 284 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) accorded prior to the issuance of the patent. As such, the Office allowed only entry of the adjustment of 284 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the

applicant delay of 50 days, the patent issued with a revised patent term adjustment of 234 (284 - 50) days.

On January 29, 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 256 days under the courts 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 entitlement to an additional 22 day period of adjustment, under 35 U.S.C. § 154(b)(1)(B). Patentee avers that section 154(b)(1)(B) provides that applicants 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." As such, patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 306 (284 + 22) days as these periods do not occur on the same day. Further, given the applicant delay of 50 days, patentee asserts entitlement to 256 (306 - 50) days of patent term adjustment.

OPINION

At the outset, the Office notes that patentee's assertion that the period of delay, pursuant to 37 CFR 1.702(b), for the Office taking in excess of three years to issue the patent, is 22 days is incorrect. A review of the record indicates that the date the national stage commenced is December 27, 2005.[1] As stated in 37 CFR 1.703(b), the period of adjustment under § 1.702(b) is the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued. While the date of completion of all 35 U.S.C. 371 requirements, December 22, 2005, is the date used in calculation of the examination delay under 37 CFR 1.702(a)(1), the date the national stage commenced under 35 U.S.C. 371(b), December 27, 2005, is used to determine the Three Year Delay under 37 CFR 1.703(b).

Pursuant to 37 CFR 1.703(b), the period of adjustment under 37 CFR 1.702(b) should be 17 days, counting the number of days

[1] Monday, December 26, 2005 was a U.S. federal holiday.

beginning on the day after the date that is three years after the date on which the national stage commenced under 35 U.S.C. 371(b), December 27, 2005, and ending on the date the patent issued, January 13, 2009.

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

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

Rule, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment 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 commencement date, December 27, 2005, and ending on the date of the issuance of the application as a patent, January 13, 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), 284 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of the patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 17 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the commencement date.

The 17 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 284 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 17 days and the 284 days is

neither permitted nor warranted. 284 days is the actual number of days issuance of the patent was delayed. Considering the applicant delay of 50 days, the patent term adjustment at issuance is 234 (284 - 50) days.

Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

CONCLUSION

In view thereof, no adjustment to the patent term will be made.

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

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Dickinson Wright, PLLC
1875 Eye Street, NW
Suite 1200
Washington, DC 20006

Mail Date: 04/20/2010

Applicant	: Wolfgang Peisl	: DECISION ON REQUEST FOR
Patent Number	: 7627248	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/562,304	: 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 **910** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Myers Andras Sherman LLP
19900 MacArthur Blvd.
Suite 1150
Irvine CA 92612

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FEB 01 2010

In re Application of	:	
Michael Popovsky et al.	:	
Application No. 10/562,311	:	DECISION ON PETITION
Filed: December 22, 2005	:	TO WITHDRAW
Attorney Docket No. SP02.PAU.01.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 10, 2009.

The request is **APPROVED**.

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

The request was signed by Michael Zarrabian on behalf of attorney/agents of record. All attorneys/agents of record have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Michael Popovsky, Spongetech, Inc.
8507 S. La Cienega Blvd.
Inglewood, CA 90301

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/562,311	12/22/2005	Michael Popovsky	SP02.PAU.01.US

CONFIRMATION NO. 3777

POWER OF ATTORNEY NOTICE

23386
Myers Andras Sherman LLP
19900 MacArthur Blvd.
Suite 1150
Irvine, CA 92612

Date Mailed: 02/01/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/10/2009.

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

/kainabinet/

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

0 4 MAR 2008

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P.O. Box 1450
Alexandria, VA 22313-1450
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BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

In re Application of	:	
CLAVEAU	:	DECISION ON PETITIONS
U.S. Application No.: 10/562,317	:	
PCT No.: PCT/FR04/01597	:	UNDER 37 CFR 1.497(d)
Int. Filing Date: 24 June 2004	:	
Priority Date: 24 June 2003	:	AND 37 CFR 1.137(b)
Atty Docket No.: 113035-00135	:	
For: METHOD AND DEVICE FOR MARKING LONG OBJECTS BY SUBLIMATION	:	

This decision is in response to applicant's petitions filed 27 November 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 24 June 2004, applicant filed international application PCT/FR04/01597, which claimed priority of an earlier application filed 24 June 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 06 January 2005. Pursuant to 37 CFR 1.485, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 24 December 2005.

On 23 December 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 01 February 2007, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. In addition, applicant was advised of the need to furnish an English translation of the international application as filed. 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 02 April 2007, applicant filed a response which included an executed declaration of the inventors and an English translation of the international application as filed.

On 14 September 2007, applicant was mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) informing applicant that the filed declaration was

defective in that it did not list, nor was it executed by, Jean-Francois Chalumeau, who was identified as an inventor on the published international application. Applicant was afforded one month or the extendable time remaining from the Form PCT/DO/EO/905 to file a proper response.

On 27 November 2007, applicant responded with the present petition to revive under 37 CFR 1.137(b), which included as part of the proper reply a petition under 37 CFR 1.497(d) to delete Jean-Francois Chalumeau as an inventor.

DISCUSSION

I. Petition Under 37 CFR 1.497(d)

A request under 37 CFR 1.497(d) [formally, 37 CFR 1.48] to correct an error in naming inventorship requires:

(1) a petition including a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

(3) the fee set forth in 37 CFR 1.17(h); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

As to Item (1), applicant has provided a statement from Jean-Francois Chalumeau declaring that the error in inventorship occurred without deceptive intent.

Regarding Item (2), on 04 January 2008, applicant filed a declaration executed by the sole inventor as corrected.

As Item (3), payment of the $130.00 petition fee will be charged to deposit account 23-2185 as authorized.

Regarding Item (4), applicant has provided a statement from the assignee consenting to the removal of Jean-Francois Chalumeau as an inventor in the present application.

As such, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

II. Petition Under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the

grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required). Item 4 does not apply to the present application.

As to item 1, applicant has now provided a grantable petition under 37 CFR 1.497(d) to delete Jean-Francois Chalumeau as an inventor, thus perfecting the declaration filed 02 April 2007.

Regarding item 2, applicant has provided payment of the appropriate petition fee.

As to item 3, 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).

With the filing of the grantable petition, the proper reply to the Form PCT/DO/EO/905 mailed 01 February 2007 has been provided and it is proper to grant applicant's petition at this time.

CONCLUSION

For the reasons discussed above, the request under 37 CFR 1.497(d) and petition under 37 CFR 1.137(b) are **GRANTED**.

This application has an international application filing date of 24 June 2004 and will be given a date of **02 April 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision

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

21 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

In re Application of	:	
VITA et al.	:	
Application No.: 10/562,323	:	DECISION ON
PCT No.: PCT/FR04/01698	:	
Int. Filing Date: 01 July 2004	:	RESPONSE
Priority Date: 04 July 2003	:	
Attorney Docket No.: 033339/305722	:	
For: URANIUM-CHELATING PEPTIDES AND USES THEREOF	:	

This decision is in response to "Response to Notification of Missing Requirements" filed in the United States Patent and Trademark Office on 01 August 2006.

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 19 July 2006, the Office mailed Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required. On 01 August 2006, applicant filed the instant response.

DISCUSSION

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

In case of the death of the inventor, the legal representative (executor, administrator, etc.)

of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Section 409.01(a) of the Manual of Patent Examining Procedure (MPEP) states that the application can also be executed by all of the heirs of the deceased inventor, where no legal representative has been appointed or is required to be appointed by law.

37 CFR 1.497(b)(2) states the following:

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

Pursuant to 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 01 August 2006 includes the required citizenship, residence, and mailing address information for the surviving inventors and the persons identified as heirs signing the declaration on behalf of the deceased inventor. However, the declaration does not set forth the citizenship, former residency and mailing address of the deceased inventor. 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 (heirs) to meet the requirements for compliance with 37 CFR 1.497.

In addition, neither the declaration nor any materials submitted therewith state that the three heirs listed in the declaration are the only heirs of the deceased inventor. Applicants must provide a revised declaration 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. 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).

Also the declaration submitted on 01 August 2006 appears to be in both the French and English languages. As stated in 37 CFR 1.69(b), unless the text of any oath or declaration in a language other than English is in the form provided by the Patent and Trademark Office..., it must be accompanied by an English translation together with a statement that the translation is accurate. See also MPEP 602.06. It is suggested that applicant employ USPTO Form PTO/SB/105 or that the newly executed declaration be accompanied by a statement of counsel that the translation is accurate.

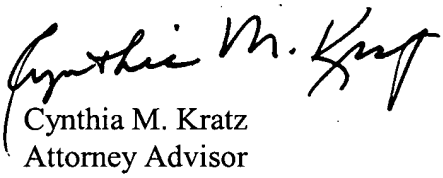
CONCLUSION

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

Applicants have **TWO (2) MONTHS** from the mailing date of this communication to submit a proper response under 37 CFR 1.42 and 37 CFR 1.497. Failure to provide a proper and timely response will result in abandonment. Extensions of time are available under 37 CFR 1.136(a).

A proper response must include a revised and re-executed declaration 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.

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



Cynthia M. Kratz
Attorney Advisor
PCT Legal Administration
Telephone: 571-272-3286
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

26 MAY 2009

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

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

In re Application of	:	
VITA et al.	:	
Application No.: 10/562,323	:	DECISION ON
PCT No.: PCT/FR04/01698	:	
Int. Filing Date: 01 July 2004	:	RESPONSE
Priority Date: 04 July 2003	:	
Attorney Docket No.: 033339/305722	:	
For: URANIUM-CHELATING PEPTIDES AND USES THEREOF	:	

This is a decision on applicant's 14 April 2009 request to withdraw the holding of abandonment and consideration of applicant's 17 October 2007 submission in the United States Patent and Trademark Office.

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 19 July 2006, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required. On 01 August 2006, applicant filed a response with an executed French/English language declaration.

On 21 March 2007, a decision on applicant's submission was mailed indicating that the declaration was defective because it did not state the country of citizenship, former residency and mailing address for *both* the deceased inventor and the legal representative (heirs) to meet the requirements for compliance with 37 CFR 1.497, did not indicate that the three heirs listed in the declaration were the only heirs of the deceased inventor and was not accompanied by a statement that the English translation of the French declaration was accurate. Applicant was advised that the time period for response was two months from the mail date of the decision (21 May 2007) and that extensions of time were available.

On 21 August 2007, a Notification of Abandonment was mailed indicating that applicant

had failed to respond to the decision.

On 17 October 2007, applicant filed a response along with a request for a five month extension of time. On 14 April 2009, applicant requested a status of the application and requested withdrawal of the holding of abandonment.

DISCUSSION

The 21 August 2007 Notification of Abandonment was incorrectly mailed because the time period within which to respond to the decision and the five month extension of time had not yet expired. Thus, the 21 August 2007 Notification of Abandonment is hereby VACATED.

With the 17 October 2007 submission, applicant filed a request for a five month extension of time, which is granted.

A review of the declaration submitted on 17 October 2007 indicates that it is acceptable and in compliance with 37 CFR 1.497(a) and (b). The application has been executed by all of the heirs of the deceased inventor; no legal representative has been appointed or is required to be appointed by law. In accord with 37 CFR § 1.42, the declaration states the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. The declaration identifies the country of citizenship, former residency and mailing address for *both* the deceased inventor, his heirs and the joint inventors, in compliance with 37 CFR (a) and (b).

The declaration submitted on 17 October 2007 is in the French language and is accompanied by an English translation together with a statement that the translation is accurate. Applicant's request for status under 37 CFR 1.42 is granted.

CONCLUSION

Applicant's request for a five month extension of time is granted. The 21 August 2007 Notification of Abandonment is **VACATED**. For the reasons discussed above, the request for status under 37 CFR 1.42 is **GRANTED**.

The declaration is acceptable and in compliance with 37 CFR 1.497(a) and (b). The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date is 17 October 2007.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Administration
Telephone: 571-272-3286
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHARLES R. HOFFMANN
HOFFMANN & BARON
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

COPY MAILED
MAR 15 2010

In re Application of :
Andreas SCHILLING, et al. :
Application No. 10/562,330 : DECISION GRANTING PETITION
Filed: December 23, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **1093-145 PCT/US** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 15, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 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) 272-7253.

This application is being referred to Technology Center AU 2872 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 111609

DATE : 11/12/09

TO SPE OF : ART UNIT 2885
SUBJECT : Request for Certificate of Correction for Appl. No 10/562,336 o.: 7,529445

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)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

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** AU 2885

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,529,445 B2
APPLICATION NO.: 10/562,336
ISSUE DATE : 05 May 2009
INVENTOR(S) : Ikeda et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title page:
In item (54), correct the title from "**LIGHT GUIDE AND LINE ILLUMINATOR**" to --**LIGHT GUIDE AND IMAGE READER**--.
After "*Primary Examiner*–" change "John A Ward" to --John A. Ward--.
In item (73), "Assignee:", change "**Ltd**, Osaka" to --**Ltd.**, Osaka--.

Column 1:
Line 1, change "**LIGHT GUIDE AND LINE ILLUMINATOR**" to --**LIGHT GUIDE AND IMAGE READER**--.

Column 2:
Line 10, change "instance, of illuminating" to --instance, illuminating--.

KNJ-214-A

MAILING ADDRESS OF SENDER (Please do not use customer number below):
CARRIER BLACKMAN & ASSOCIATES PC
43440 WEST TEN MILE ROAD
NOVI MI 48375

JPC/eb

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/562,344	05/25/2006	Kazuhiro Shibata	403579/SKY	4117

7590 12/07/2007

LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON, DC 20005-3960

EXAMINER	
LE, HOANGANH T	

ART UNIT	PAPER NUMBER
2821	

MAIL DATE	DELIVERY MODE
12/07/2007	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

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

Patent Publication Branch
Office of Data Management

02 FC:2633 100.00 CR

Adjustment date: 12/07/2007 RCLEMONS
04/25/2006 MKAYPAGH 00000004 121216 10562344
01 FC:2631 150.00 CR

Adjustment date: 12/07/2007 RCLEMONS
04/21/2006 MKAYPAGH 00000117 121216 10562344
01 FC:2617 65.00 CR

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,344	05/25/2006	Kazuhiro Shibata	403579/SKY	4117

23548 7590 12/07/2007

LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON, DC 20005-3960

EXAMINER	
LE, HOANGANH T	

ART UNIT	PAPER NUMBER
2821	

MAIL DATE	DELIVERY MODE
12/07/2007	PAPER

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

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

Notice of Abandonment	Application No.	Applicant(s)	
	10/562,344	SHIBATA, KAZUHIRO	
	Examiner	Art Unit	
	Le, Hoanganh	2821	

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

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

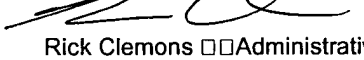
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☑ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:



Rick Clemons □□Administrative Assistant□□Art Unit: 3900

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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BRINKS, HOFER, GILSON & LIONE
P.O. BOX 1340
MORRISVILLE, NC 27560

Mail Date: 04/21/2010

Applicant	: Maurits Van Camp	: DECISION ON REQUEST FOR
Patent Number	: 7597740	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/562,347	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **523** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BRINKS, HOFER, GILSON & LIONE
P.O. BOX 1340
MORRISVILLE, NC 27560

Mail Date: 05/18/2010

Applicant : Maurits Van Camp
Patent Number : 7597740
Issue Date : 10/06/2009
Application No: 10/562,347
Filed : 06/20/2006

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

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

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

The patent term adjustment has been determined to be **585** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

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OFFICE OF PETITIONS

HARMAN - BRINKS HOFER CHICAGO
BRINKS, HOFER, GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

In re Application of :
Marcus Hennecke. :
Application No. 10/562,355 : DECISION ON PETITION
Filed: December 27, 2005 : TO WITHDRAW
Attorney Docket No. 11336-1234 (P03063US) : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others

The request cannot be approved because the practitioner(s) requesting the withdrawal have not certified that they have (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment; (2) deliver to the client or duly authorized representative of the client papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond. The failure to do so may subject the practitioner to discipline. It is also noted that false certification may violate a practitioners' duty under 37 CFR 10.23(b)(4) and (b)(5).

Further the request cannot be approved because the practitioners were not appointed by customer number 81166. Practitioners must withdraw by customer number that they were appointed.

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

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

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

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

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

Attachment: Blank copy of PTOL/SB/83 Form

cc: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL INDUSTRIES, INCORPORATED
8500 BALBOA BOULEVARD
NORTHRIDGE, CA 91329

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/20/2010

Applicant	: Shinji Takase	: DECISION ON REQUEST FOR
Patent Number	: 7618573	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/562,356	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **915** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BANGER SHIA
204 CANYON CREEK
VICTORIA TX 77901

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JUN 14 2010

OFFICE OF PETITIONS

In re Application of
Runlin He
Application No. 10/562,357
Filed: December 27, 2005
Attorney Docket No: 122705SH 01a

ON PETITION

This is a decision on the petition filed May 18, 2010 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed October 3, 2007. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned January 4, 2008. Accordingly, a Notice of Abandonment was mailed April 14, 2008.

This matter is being referred to Technology Center 2889 for appropriate action on the amendment filed May 18, 2010.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

0 9 NOV 2006

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PERKINS COIE LLP
P.O. Box 2168
Menlo Park, CA 94026

In re Application of:	:	
HARLEY, Calvin, B., et al.	:	DECISION ON PETITION UNDER
U.S. Application No.: 10/562,374	:	37 CFR 1.47(a)
PCT No.: PCT/US2004/020277	:	
International Filing Date: 23 June 2004	:	
Priority Date: 23 June 2003	:	
Attorney's Docket No.: 38797-8004.US00	:	
For: COMPOSITIONS AND METHODS FOR INCREASING TELOMERASE ACTIVITY	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(a)" filed 07 September 2006. Applicants have paid the required petition fee.

BACKGROUND

On 23 June 2004, applicants filed international application PCT/US2004/020277. The international application claimed a priority date of 23 June 2003, and it designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 23 December 2005.

On 23 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 08 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497, the surcharge for filing the oath or declaration later than thirty months after the priority date, and additional sequence listing materials were required.

On 07 September 2006, applicants filed a response to the Notification Of Missing Requirements (with required two-month extension fee). The response included payment of the required surcharge, sequence listing materials, and the "Petition Under 37 CFR 1.47(a)" considered herein. The petition seeks acceptance of the application without the signature of inventor David MILLER-MARTINI, whom applicants assert has refused to execute the application.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have 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 materials executed by five of the six named inventors and containing an unsigned signature block for the non-signing inventor. However, the declaration consists of one copy of page 1, one copy of page 2, and four different copies of page 3 (the signature page), each signed by a different inventor. The multiple copies of the signature page have been renumbered by hand, but the submission appears to be a compilation of a number of separately executed declarations. As such, the declaration is not acceptable under 37 CFR 1.497 (See MPEP § 201.03(II)(B): "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration."). Applicants must provide a copy of the complete declaration executed by each of the cooperating inventors (with each such declaration satisfying 37 CFR 1.497 and including an unsigned signature block for the non-signing inventor) before item (3) can be considered 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 nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also states the following:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Here, applicants not provided a firsthand statement, with supporting documentary evidence, confirming that a request for signature, with a copy of the complete application, was forwarded to the non-signing inventor's attorney. Applicants must provide such evidence before

it can be concluded that the non-signing inventor has refused to execute the declaration in the present application. Based on the above, item (4) is not 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 items (3) and (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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

23 JUL 2007

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PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

In re Application of	:	
HARLEY, Calvin et al.	:	DECISION ON
Application No.: 10/562,374	:	
PCT No.: PCT/US04/20277	:	RENEWED PETITION
Int. Filing Date: 23 June 2004	:	
Priority Date: 23 June 2003	:	UNDER 37 CFR 1.47(a)
Attorney's Docket No.: 38797-8004.US00	:	
For: Compositions And Methods For Increasing Telomerase Activity	:	

This is a decision on applicant's "Renewed Petition Under 37 C.F.R. 1.47(a) and Request for Reconsideration," filed in the United States Patent and Trademark Office on 09 March 2007, to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, David M. Miller-Martini.

BACKGROUND

On 23 June 2004, applicants filed international application PCT/US04/20277, claiming a priority date of 23 June 2003. The thirty-month for paying the basic national fee in the United States expired at midnight on 23 December 2005.

On 23 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 08 May 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), the surcharge for late filing of the oath or declaration and a copy of the sequence listing in computer readable format were required.

On 07 September 2006, applicants filed a response to the Notification of Missing Requirements including, *inter alia*, an executed declaration and a petition under 37 CFR 1.47(a) requesting acceptance of the declaration on behalf of the non-signing inventor David M. Miller-Martini.

On 09 November 2006, the Office mailed the "Decision On Petition Under 37 CFR 1.47(a)," dismissing applicants' petition without prejudice indicating that applicants have not provided evidence that a copy of the complete application was sent to the non-signing inventor's attorney. The Decision also stated that the declaration filed 07 September 2006 was not in compliance with 37 CFR 1.497(a)-(b) and as such, a new declaration was required.

On 12 February 2007, the Office mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) indicating that the instant application has been abandoned because applicants have failed to respond to the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 08 May 2006.

On 09 March 2007, applicants filed the instant "Renewed Petition Under 37 CFR 1.47(a) and Request for Reconsideration," requesting acceptance of the declaration on behalf of the non-signing inventor David M. Miller-Martini including, a two-month extension fee, a declaration and evidence that a copy of the complete application papers were mailed to the last known address of non-signing inventor David M. Miller-Martini.

DISCUSSION

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

As to items (1) and (2), applicants have submitted the correct petition fee of $200.00 under 37 CFR 1.17(g) and a statement of the last known address of the non-signing inventor.

With regard to item (3), applicants have filed a declaration executed by the other cooperating inventors and containing an unsigned signature block for the non-signing inventor. This declaration complies with 37 CFR 1.497(a)-(b) and is accepted. Hence, item (3) is satisfied.

With regard to item (4), the declaration of Mr. Peter Dehlinger represents a firsthand statement by the person who presented non-signing inventor David M. Miller-Martini with the complete application. The copy the United States Postal Service return receipt is sufficient to show that the application papers were mailed to the last known address of non-signing inventor David M. Miller-Martini and that they have been received. Further evidence of receipt, is the signature of non-signing inventor David M. Miller-Martini on the USPS return receipt. As such, item (4) is satisfied.

CONCLUSION

Applicants' renewed petition filed under 37 C.F.R. 1.47(a) is **GRANTED**.

The Notification of Abandonment mailed 12 February 2007 is **VACATED**.

This application has an International Filing Date of 23 June 2004 and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 09 March 2007.

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

As provided in 37 CFR 1.47(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.

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3303
Facsimile: (571) 273-0459

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

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KING & SPALDING LLP
P.O. BOX 889
BELMONT, CA 94002-0889

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AUG 26 2009

OFFICE OF PETITIONS

In re Application of :
Calvin Bruce Harley et al :
Application No. 10/562,374 : DECISION ON PETITION
Filed: March 9, 2007 : TO WITHDRAW
Attorney Docket No. 38797-8004.US00 (510/002) : 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 25, 2009.

The request is **APPROVED**.

The request was signed by Peter Dehlinger on behalf of all attorneys of record who are associated with customer No. 79975.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Calvin Bruce Harley
1177 Sandalwood Drive
Murphys, CA 95247

cc: Geron Corporation
Attn. David J. Earp
230 Constitution Drive
Menlo Park, CA 94025

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OCT 1 3 2006

OFFICE OF PETITIONS

Orum & Roth
Suite 1616
53 West Jackson Boulevard
Chicago, IL 60604

In re Application of :
Bernhard Nebel et al. :
Application No. 10/562,375 : DECISION ON PETITION
Filed: February 28, 2006 : TO WITHDRAW
Attorney Docket No. 14290 : 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 16, 2006.

The request is **APPROVED**.

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

The request was signed by Catherine Gemrich.

Catherine Gemrich has been withdrawn as attorneys or agents of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action at this time.

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

Diana C. Walsh for
Amelia Au
Petitions Examiner
Office of Petitions

25 JUL 2006

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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George W. Hoover
Blakely, Sokolof, Taylor & Zafman
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025

In re Application of
GSCHIERMEISTER, et al.
Application No.: 10/562,380
PCT No.: None
Int. Filing Date: None
Priority Date Claimed: 29 December 2004
Attorney Docket No.: 6741P089
For: CHANGE NOTIFICATION AGENT

DECISION ON PETITION

UNDER 37 CFR 1.182

This decision is in response to applicant's letter filed 20 January 2006 in the United States Patent and Trademark Office (USPTO). The letter is being treated as a petition under 37 CFR 1.182. As authorized, the $400.00 petition fee is being charged to deposit account number 02-2666.

BACKGROUND

On 23 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 20 January 2006, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The petition states that the 23 December 2005 correspondence inadvertently filed the national stage transmittal letter Form PTO-1390. The petition requests the Form PTO-1390 be substituted with the utility transmittal letter Form PTO/SB/05 attached to the petition.

Pursuant to 35 U.S.C. 111(a)(4), the filing date of an application shall be the date on which the specification and any required drawing are received in the USPTO. In the present case, the papers submitted on 23 December 2005 contained a specification and drawings. Thus, the 23 December 2005 submission is entitled to a filing date under 35 U.S.C. 111(a).

CONCLUSION

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

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for entry of the utility transmittal letter Form PTO/SB/05 and processing of the present application as a filing under 35 U.S.C. 111(a).

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

31 MAY 2007

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DAVIS WRIGHT TREMAINE, LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE WA 98101-1688

In re Application of LOFTON-DAY et al. Serial No.: 10/562,383 PCT No.: PCT/US04/20336 Int. Filing Date: 23 June 2004 Priority Date: 23 June 2003 Attorney's Docket No.: 47675-171 For: METHODS AND NUCLEIC ACIDS FOR ANALYSES OF COLORECTAL CELL PROLIFERATIVE DISORDERS	DECISION ON SUBMISSION

This is a decision on applicants' submission under 35 U.S.C. 371, filed on 18 December 2006 in the United States Patent and Trademark Office (USPTO), along with a three month extension of time, which is granted.

BACKGROUND

On 23 December 2005, within the thirty month period, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee.

On 21 July 2006, a Notification of Missing Requirements was mailed to applicant, indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 18 December 2006, applicant submitted a declaration, executed by the inventors.

DISCUSSION

The declaration submitted on 18 December 2006 is a two page declaration, comprised of three pages. The declaration contains Page 1 and two duplicate Page 2 signature pages. Each Page 2 is executed by different inventors. The declaration appears to be a composite declaration created from the combination of separately executed declarations. The declaration is not properly executed. It appears that either the attorney pieced together separate complete declarations into one composite declaration or that the inventors were presented with an incomplete declaration. While it is acceptable for applicants to execute separate copies of the declaration, the entire declaration, as executed by the inventor, must be submitted. "Where individual declarations are executed, they must be submitted as individual declaration rather than combined into one declaration." *See* MPEP 201.03. The declaration is unacceptable as filed and thus, the requirements of 37 CFR 1.497 (a) and (b) have not been met.

CONCLUSION

For the reasons set forth above, the declaration submitted on 18 December 2006 is unacceptable as filed. What is required is one declaration where all inventors have signed or separate complete declarations in compliance with 37 CFR 1.497(a) and (b) .

Applicant is required to correct the above-noted defects including the furnishing of an oath/declaration in compliance with 1.497(a) and (b) within TWO (2) MONTHS from the mail date of this Decision. Extensions of this time limit may be granted 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

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15 OCT 2007

DAVIS WRIGHT TREMAINE, LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE WA 98101-1688

In re Application of
LOFTON-DAY et al.
Serial No.: 10/562,383
PCT No.: PCT/US04/20336
Int. Filing Date: 23 June 2004
Priority Date: 23 June 2003
Attorney's Docket No.: 47675-171
For: METHODS AND NUCLEIC ACIDS FOR ANALYSES OF COLORECTAL CELL PROLIFERATIVE DISORDERS

DECISION ON

DECLARATION

This is a decision on applicant's submission under 35 U.S.C. 371, filed on 13 June 2007 in the United States Patent and Trademark Office (USPTO).

On 21 July 2006, a Notification of Missing Requirements was mailed to applicant, indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 18 December 2006, in response to the Notification of Missing Requirements, applicant submitted a declaration, executed by the inventors. On 31 May 2007, a decision was mailed indicating that the declaration was not in compliance with 37 CFR 1.497(a) and (b).

On 13 June 2007, applicant submitted two complete executed declarations. A review of these declarations submitted on 13 June 2007 reveals that they are acceptable and meet the requirements of 37 CFR 1.497 (a) and (b).

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **13 June 2007.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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BERENBAUM, WEINSHIENK & EASON, P.C
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SUITE 4800
DENVER CO 80202

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AUG 03 2007

OFFICE OF PETITIONS

Applicant: Fita, Fernando Bouffard
Appl. No.: 10/562,392
International Filing Date: June 1, 2004
Title: ANESTHETIC COMPOSITION FOR TOPICAL ADMINISTRATION COMPRISING LIDOCAINE, PRILOCAINE AND TETRACAINE
Attorney Docket No.: 14455.876US01
Pub. No.: US 2006/0140986 A1
Pub. Date: June 29, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 25, 2006, for the above-identified application.

Applicant requests that the application be republished because the patent application publication contains a material mistake in the international filing date on the front page.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

25 JUN 2009

Commissioner for Patents
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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN NY 11576

In re Application of	:	
KOUSEMAKER et al.	:	
Application No.: 10/562,409	:	
PCT No.: PCT/DE2004/000999	:	DECISION
Int. Filing Date: 13 May 2004	:	
Priority Date: 24 June 2003	:	
Atty Docket No.:KOUSEMAKER ET AL1-PCT	:	
For: METHOD FOR . . . METHYL ESTER	:	

This decision is in response to applicants' submission filed 30 March 2009, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 13 May 2004, applicants filed international application PCT/DE2004/000999 which claimed a priority date of 24 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 03 February 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 December 2005 (24 December 2005 being a Saturday and 26 December 2005 being a Federal holiday).

On 23 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 08 September 2006, applicants filed a declaration of inventors.

On 25 September 2006, the DO/EO/US issued a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903) according the application a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of 08 September 2006 and a 35 U.S.C. 371 date of 08 September 2006.

On 19 March 2009, a NOTIFICATION was mailed vacating the NOTICE OF ACCEPTANCE mailed 25 September 2006 because the electronic file wrapper did not include an English translation of the international application as filed.

On 30 March 2009, applicants filed the instant submission which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

The petition requests that the English translation of the international application accompanying the petition be treated as having been originally received in the USPTO on 23 December 2005 and that the NOTICE OF ACCEPTANCE mailed 25 September 2006 be reinstated.

Applicants have provided sufficient evidence to establish that on 23 December 2005 applicants filed a translation of the international application. The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 23 December 2005 and which itemizes an "International Application and English translation" and identifies the above-captioned application number and attorney docket number. Further, practitioner states that the copy of the English translation filed 30 March 2009 is a copy of the translation originally filed 23 December 2005. Therefore, in view of the date-stamped receipt and practitioner's statement, the English translation received on 30 March 2009 may properly be accepted as originally received in the USPTO on 23 December 2005. Accordingly, The NOTICE OF ACCEPTANCE mailed 25 September 2006 is hereby reinstated.

CONCLUSION

The petition under 37 CFR 1.181 is GRANTED for the reasons set forth above.

The NOTICE OF ACCEPTANCE mailed 25 September 2006 is hereby reinstated for the reasons set forth above.

This application is being forward to Art Unit 1797 for continued processing of the application.

/Daniel Stemmer/
Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
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22 NOV 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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www.uspto.gov

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

In re Application of	
HARLEY, Calvin et al.	
Application No.: 10/562,410	DECISION
PCT No.: PCT/US04/20338	
Int. Filing Date: 24 June 2004	ON PETITION UNDER
Priority Date: 25 June 2003	
Docket No.: 38797-8007.US00	37 CFR 1.47(a)
For: COMPOSITIONS AND METHOD FOR SKIN CONDITIONING	

This is a decision on applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 07 September 2006.

BACKGROUND

On 08 May 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the search fee, examination fee or oath or declaration were required.

On 07 September 2006, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration and the fee for a two month extension of time.

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 nonsigning applicant.

Items (1) and (3) have been met. (1) The petition fee of $200 has been paid. (3) The petition lists the last known addresses of non-signing inventor David Miller-Martini as 409 Pine Street, Ridgway, PA 15833.

Item (2) has not been satisfied. The petition must supply proof that applicant refused to sign after being presented with the application papers (specification, including claims, drawings, and oath or declaration). MPEP §409.03(d). Currently, it is not clear that applicant received a complete copy of the application papers. The correspondence from applicant appears to use application and declaration for the application interchangeably and counsel did not forward the documents directly to applicant. However, more importantly, applicant contends that information listed in the declaration is incorrect and he appears unwilling to sign the declaration if that information is not corrected. As indicated in Mr. Miller-Martini's email, applicants should correspond with Mr. Miller-Martini's counsel Gwendolyn Wood.

Item (4) has not been satisfied. The declaration appears to have been pieced together from separately executed declarations to create a single composite declaration. Applicants have provided one page each of pages 1 and 2, but four pages 3. Further, three of the pages 3 contain non-initialed, non-dated alterations to the page number. It is improper for anyone to modify the oath or declaration after execution by the inventors. Applicants must submit the declaration as executed by the inventors and it must comply with 37 CFR 1.497(a)-(b). New oaths or declarations executed by the inventors are required. 37 CFR 1.52(c)(1).

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

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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19 JUN 2007

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

In re Application of :
HARLEY, Calvin et al. :
Application No.: 10/562,410 : DECISION
PCT No.: PCT/US04/20338 :
Int. Filing Date: 24 June 2004 : ON PETITION UNDER
Priority Date: 25 June 2003 :
Docket No.: 38797-8007.US00 : 37 CFR 1.47(a)
For: COMPOSITIONS AND METHOD FOR :
SKIN CONDITIONING :

This is a decision on applicant's renewed Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 12 March 2007.

BACKGROUND

On 22 November 2006, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicant's petition without prejudice.

On 12 March 2007, applicants submitted a renewed petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration and the fee for a two month extension of time.

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 nonsigning applicant.

Items (1) and (3) were previously satisfied. (1) The petition fee of $200 has been paid. (3) The petition lists the last known addresses of non-signing inventor David Miller-Martini as 409 Pine Street, Ridgway, PA 15833.

Item (2) has been satisfied. Applicants sent a complete copy of the application papers to Mr. Miller-Martini and to his counsel Gwendolyn Wood, but have not received a signed declaration.

Item (4) has been satisfied. The declarations of the inventors comply with 37 CFR 1.497(a)-(b) and 37 CFR 1.47(a).

CONCLUSION

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

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **12 March 2007**.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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KING & SPALDING LLP
P.O. BOX 889
BELMONT, CA 94002-0889

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AUG 2 8 2009

OFFICE OF PETITIONS

In re Application of :
Calvin Bruce Harley et al :
Application No. 10/562,410 : DECISION ON PETITION
Filed: September 7, 2006 : TO WITHDRAW
Attorney Docket No. 38797-8007.US00 (511/002) : 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 25, 2009.

The request is **APPROVED**.

The request was signed by Peter Dehlinger on behalf of all attorneys of record who are associated with customer No. 79975.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Calvin Bruce Harley
1177 Sandalwood Drive
Murphys, CA 95247

cc: Geron Corporation
Attn. David J. Earp
230 Constitution Drive
Menlo Park, CA 94025

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
10/562,410	09/07/2006	Calvin B. Harley	38797-8007.US00 (511/002)

CONFIRMATION NO. 6086

79975
King & Spalding LLP
P.O. Box 889
Belmont, CA 94002-0889

POWER OF ATTORNEY NOTICE

OC000000037529352

Date Mailed: 08/28/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/25/2009.

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

/idingle/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/562,410	09/07/2006	Calvin B. Harley	38797-8007.US00 (511/002)

CONFIRMATION NO. 6086

Calvin Bruce Harley
1177 Sandalwood Drive
Murphys, CA 95247

POA ACCEPTANCE LETTER

OC00000037529410

Date Mailed: 08/28/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/25/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

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

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Craig B Bailey
Fulwider Patton
Howard Hughes Center
10th Floor 6060 Center Drive
Los Angeles, CA 90045

Mail Date: 05/19/2010

Applicant	: Patrick K. Sullivan	: DECISION ON REQUEST FOR
Patent Number	: 7654962	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/562,416	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **736** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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RANKIN, HILL & CLARK LLP
925 EUCLID AVENUE
SUITE 700
CLEVELAND OH 44115-1405

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OCT 2 3 2008

OFFICE OF PETITIONS

In re Application of :
Ruriko Takano, et al. :
Application No. 10/562,420 : DECISION ON PETITION
Filed: December 27, 2005 : TO WITHDRAW
Attorney Docket No. TAK-180-PCT : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 11, 2008.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "transfer of files to new firm", do not meet any the conditions set forth in 37 CFR 10.40.

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

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

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

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

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

cc: RONALD SNIDER
1607 31ST STREET NW
WASHINGTON, DC 20007

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,421	05/17/2006	Jan Clair Nielsen	NIELSEN6A	5536

1444 7590 04/23/2010

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

EXAMINER	
GANGLE, BRIAN J	

ART UNIT	PAPER NUMBER
1645	

MAIL DATE	DELIVERY MODE
04/23/2010	PAPER

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

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

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

APR 23 2010

In re Application of:
Jan Clair Nielsen
Serial No.: 10/562,421
Filed: May 17, 2006
Attorney Docket No.: **NIELSEN6A**

: PETITION DECISION

This is in response to the Petition filed by applicants under 37 CFR § 1.181 on April 5, 2010, requesting that the finality of the Office action of February 5, 2010 be withdrawn.

BACKGROUND

Most recently, on February 5, 2010, the examiner mailed a "final" Office action.

Applicant argues that application should not have been made final as new grounds of rejection are introduced. While the Office Action Summary (PTOL-326) does indicate the action is FINAL [see Status 2a)], this is a typographic error. It should be noted the Office action does not close with the paragraph that the action is final. Therefore, the Office action of February 5, 2010 is a non-final action.

DECISION

The petition is **DISMISSED AS MOOT.**

Any amendment filed will be entered and considered by the examiner.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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Mailed: 9-13-06

In re application of
Inoue, et al.
Serial No. 10/562,438
Filed: December 28, 2005
For: NON-AQUEOUS ELECTROLYTE SECONDARY BATTERY

DECISION ON PETITION

This is a response to applicant's petition under 37 C.F.R. 1.102(d) on January 31, 2006. An application may be granted special status provided that applicant complies with each of the following items:

(A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested;

(D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

DECISION

Applicant has complied with the conditions set forth above.

The Petition is **Granted**.

William Krynski, SPRE
Technology Center 1700
Chemical and Materials Engineering

Bernard P. Codd
McDermott Will & Emery
600 13th Street, N.W.
Washington, DC 20005

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27 JAN 2006

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH/EBAY
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of	:	
GROSSFELD et al.	:	
Application No.: 10/562,459	:	DECISION ON PETITION
PCT No.: PCT/US04/14997	:	
Int. Filing Date: 12 May 2004	:	UNDER
Priority Date: 03 July 2003	:	
Attorney Docket No.: 2043.059US1	:	37 CFR 1.497(d)
For: METHOD AND SYSTEM FOR MANAGING DATA TRANSACTION REQUESTS	:	

This decision is in response to applicants' "REQUEST TO CORRECT INVENTORSHIP PURSUANT TO 37 C.F.R. 1.497(d)" filed in the United States Patent and Trademark Office (USPTO) on 29 December 2005.

BACKGROUND

On 12 May 2004, applicants filed international application PCT/US04/14997, which designated the United States and claimed a priority date of 03 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 03 February 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 03 January 2006.

On 29 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 inventors, and the instant "REQUEST TO CORRECT INVENTORSHIP PURSUANT TO 37 C.F.R. 1.497(d)".

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 92bis subsequent to the

execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

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

(2) The processing fee set forth in Sec. 1.17(I); and

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

(4) Any new oath or declaration required by paragraph (f) of this section.

Applicants have satisfied item (1).

As to item (2), the processing fee of $130 has been charged to Deposit Account 19-0743.

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

Applicants have not satisfied item (3). The written consent of the assignee does not contain documentary evidence of a chain of title from the original owner to the assignee. See MPEP § 324 for a proper showing under 37 CFR 3.73(b).

Declaration of Inventors

The declaration of inventors filed 29 December 2005 is not in compliance with 37 CFR 1.497(a)-(b). There is a difference in names in two of the named inventor between the published international application (Randy Wigginton and Chris Kasten) and the declaration of inventors (Kenneth Randall Wigginton and Christopher J. Kasten, respectively). Because this difference in names is more than a mere typographical error or a phonetic misspelling of each of applicant's legal names, a proper petition under 37 CFR 1.182 is required for each inventor in order to resolve the matter. Such a petition must be accompanied by the requisite petition fee of $400 as well as a statement from the inventor. This statement should set forth that he is a joint inventor of the subject matter of the present application and should set forth the circumstances surrounding the difference in names on the international application and the declaration.

CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED** 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

16 MAY 2006

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P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of	:	
GROSSFELD et al.	:	
Application No.: 10/562,459	:	DECISION ON PETITION
PCT No.: PCT/US04/14997	:	
Int. Filing Date: 12 May 2004	:	UNDER
Priority Date: 03 July 2003	:	
Attorney Docket No.: 2043.059US1	:	37 CFR 1.497(d)
For: METHOD AND SYSTEM FOR MANAGING DATA TRANSACTION REQUESTS	:	

This decision is in response to applicants' "RENEWED PETITION UNDER 37 C.F.R. 1.497(d)" filed in the United States Patent and Trademark Office (USPTO) on 29 March 2006.

BACKGROUND

On 12 May 2004, applicants filed international application PCT/US04/14997, which designated the United States and claimed a priority date of 03 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 03 February 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 03 January 2006.

On 29 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 inventors, and a "REQUEST TO CORRECT INVENTORSHIP PURSUANT TO 37 C.F.R. 1.497(d)".

On 27 January 2006, a decision was mailed dismissing applicants' request under 37 CFR 1.497(d) because the written consent of the assignee did not contain documentary evidence of a chain of title from the original owner to the assignee. The decision also noted that the declaration of inventors filed 29 December 2005 was not in compliance with 37 CFR 1.497(a)-(b) because there was a difference in names in two of the named inventors between the published international application (Randy Wigginton and Chris Kasten) and the declaration of inventors (Kenneth

Randall Wigginton and Christopher J. Kasten, respectively). The decision further noted that because this difference in names was more than a mere typographical error or a phonetic misspelling of each of applicant's legal names, a proper petition under 37 CFR 1.182 was required in order to resolve the matter.

On 29 March 2006, applicants submitted the instant renewed petition under 37 CFR 1.497(d) as well as a petition under 37 CFR 1.182.

DISCUSSION

Petition Under 37 CFR 1.497(d)

37 CFR 1.497(d), provides:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:
>
> (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in Sec. 1.17(I); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
>
> (4) Any new oath or declaration required by paragraph (f) of this section.

As noted in the decision mailed 27 January 2006, applicants have satisfied items (1) and (2) and as to item (4), a new declaration is not required by 37 CFR 1.497(f) in the instant situation.

Applicants have now satisfied item (3).

Petition Under 37 CFR 1.182

The petition fee has been paid. The statements of Kenneth Randall Wigginton and Christopher J. Kasten are accepted. The declaration of inventors filed 29 December 2005 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the request under 37 CFR 1.497(d) is **GRANTED**.

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

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

Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **29 December 2005**.

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

16 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH/EBAY
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of	:	
GROSSFELD et al.	:	
Application No.: 10/562,459	:	DECISION ON PETITION
PCT No.: PCT/US04/14997	:	
Int. Filing Date: 12 May 2004	:	UNDER
Priority Date: 03 July 2003	:	
Attorney Docket No.: 2043.059US1	:	37 CFR 1.497(d)
For: METHOD AND SYSTEM FOR MANAGING DATA TRANSACTION REQUESTS	:	

This decision is in response to applicants' "RENEWED PETITION UNDER 37 C.F.R. 1.497(d)" filed in the United States Patent and Trademark Office (USPTO) on 29 March 2006.

BACKGROUND

On 12 May 2004, applicants filed international application PCT/US04/14997, which designated the United States and claimed a priority date of 03 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 03 February 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 03 January 2006.

On 29 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 inventors, and a "REQUEST TO CORRECT INVENTORSHIP PURSUANT TO 37 C.F.R. 1.497(d)".

On 27 January 2006, a decision was mailed dismissing applicants' request under 37 CFR 1.497(d) because the written consent of the assignee did not contain documentary evidence of a chain of title from the original owner to the assignee. The decision also noted that the declaration of inventors filed 29 December 2005 was not in compliance with 37 CFR 1.497(a)-(b) because there was a difference in names in two of the named inventors between the published international application (Randy Wigginton and Chris Kasten) and the declaration of inventors (Kenneth

Copied from 10562456 on 07/06/2006

Randall Wigginton and Christopher J. Kasten, respectively). The decision further noted that because this difference in names was more than a mere typographical error or a phonetic misspelling of each of applicant's legal names, a proper petition under 37 CFR 1.182 was required in order to resolve the matter.

On 29 March 2006, applicants submitted the instant renewed petition under 37 CFR 1.497(d) as well as a petition under 37 CFR 1.182.

DISCUSSION

Petition Under 37 CFR 1.497(d)

37 CFR 1.497(d), provides:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:
>
> (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in Sec. 1.17(I); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
>
> (4) Any new oath or declaration required by paragraph (f) of this section.

As noted in the decision mailed 27 January 2006, applicants have satisfied items (1) and (2) and as to item (4), a new declaration is not required by 37 CFR 1.497(f) in the instant situation.

Applicants have now satisfied item (3).

Petition Under 37 CFR 1.182

The petition fee has been paid. The statements of Kenneth Randall Wigginton and Christopher J. Kasten are accepted. The declaration of inventors filed 29 December 2005 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the request under 37 CFR 1.497(d) is **GRANTED**.

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

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

Copied from 10562456 on 07/06/2006

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 the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **29 December 2005**.

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

Copied from 10562456 on 07/06/2006

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SCHWEGMAN, LUNDBERG & WOESSNER/EBAY
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/21/2010

Applicant	: Elena Grossfeld	: DECISION ON REQUEST FOR
Patent Number	: 7650338	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/562,459	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1039** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Alexandria, VA 22313-1450
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JUL 22 2008

D'AMBROSIO & ASSOCIATES, P.L.L.C.
10260 WESTHEIMER, SUITE 465
HOUSTON, TX 77042

In re Application of :
Anthony KASTROPLL :
Application No. 10/562,477 : DECISION ON PETITION
Filed: December 22, 2005 : TO WITHDRAW
Attorney Docket No. VOWL007 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 4, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because the attorneys of record were not appointed by Customer Number 37334, the attorneys were appointed individually.

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 VOWLES
P.O. BOX 394
ROMSEY 3434
AUSTRALIA

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D'AMBROSIO & ASSOCIATES, PLLC
10260 WESTHEIMER, SUITE 465
HOUSTON, TX 77042

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SEP 15 2008

OFFICE OF PETITIONS

In re Application of :
Anthony **KASTROPLL** :
Application No. 10/562,477 : DECISION ON PETITION
Filed: December 22, 2005 : TO WITHDRAW
Attorney Docket No. VOWL007 : 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 30, 2008.

The request is **DISMISSED as moot.**

A review of the file record indicates that the power of attorney to D'Ambrosio & Associates, PLLC, has been revoked by the assignee of the patent application on August 11, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: EDMONDS, P.C.
16815 ROYAL CREST DRIVE,
SUITE 130
HOUSTON, TX 77058

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park NC 27709

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JUL 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Kosutic et al.	:	
Application No. 10/562478	:	DECISION ON PETITION
Filing or 371(c) Date: 11/15/2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 014811-487.114US	:	

This is a decision on the "Petition to Accept an Unintentionally Delayed Claim Under 35 U.S.C. 120 in U.S. Patent Application No. 10/562,478," filed July 6, 2009, for the benefit of the prior-filed application set forth in the amendment filed with the petition. The petition is properly treated under 37 C.F.R. § 1.78(a)(3),

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 Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application(s). In order for this application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37

CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application(s), accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1656 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application(s).

Anthony Knight
Supervisor
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
10/562,478	11/15/2006	1656	980	014811-487.114US	3	3

CONFIRMATION NO. 8427

CORRECTED FILING RECEIPT

24239
MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

Date Mailed: 07/28/2009

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)

Gordana Kosutic, Raleigh, NC;
Nnochiri N. Ekwuribe, Cary, NC;
Christopher H. Price, Chapel Hill, NC;
Aslam M. Andsari, Montgomery Village, MD;
Amy L. Odenbaugh, Cary, NC;

Assignment For Published Patent Application

NOBEX CORPORATION, Durham, NC

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US04/16784 05/27/2004
which claims benefit of 60/482,130 06/24/2003
This application 10/562,478
is a CIP of 10/806,523 03/23/2004 PAT 7,084,121
which is a CON of 09/873,777 06/04/2001 PAT 6,713,452

Foreign Applications

If Required, Foreign Filing License Granted: 06/05/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/562,478**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Mixtures Of Calcitonin Drug-Oligomer Conjugates And Methods Of Use In Pain Treatment

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

Mail Date: 04/20/2010

Applicant	: Kenji Matsuda	: DECISION ON REQUEST FOR
Patent Number	: 7597024	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/562,482	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **549** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Husch Blackwell Sanders, LLP
Husch Blackwell Sanders LLP Welsh & Katz
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Erik Peter Bleuel	: DECISION ON REQUEST FOR
Patent Number	: 7618828	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/562,489	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **802** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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GRIFFIN BUTLER WHISENHUNT & SZIPL LLP
SUITE PH-1
2300 NINTH STREET SOUTH
ARLINGTON VA 22204-2396

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JUL 0 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Kazuhiko Katsumata	:	
Application No. 10/562,498	:	DECISION GRANTING PETITION
Filed: December 27, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ASAIN0173	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 25, 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 14, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3749 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

[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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25 AUG 2006

COHEN, PONTANI, LIEBERMAN & PAVANE
551 Fifth Avenue
Suite 1210
New York, NY 10176

In re Application of:	
MAYER-WEGELIN, Raphael, et al.	DECISION ON PETITION UNDER
U.S. Application No.: 10/562,514	37 CFR 1.182 TO CHANGE AN
PCT No.: PCT/EP2004/050941	INVENTOR'S NAME
International Filing Date: 27 May 2004	
Priority Date: 30 June 2003	
Attorney's Docket No.: 502901-216PUS	
For: METHOD FOR MONITORING A ROTATION RATE SENSOR	

This decision is issued in response to the "Response To Notification Of Missing Requirements And Petition Under 37 CFR 1.182 To Change Inventor Name" filed by applicants on 03 July 2006. Applicant has paid the required $400 petition fee.

BACKGROUND

On 27 May 2004, applicants filed international application PCT/EP2004/050941. The international application claimed a priority date of 30 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., 30 December 2005. The published international application identified a corporate applicant for all states other than the U.S., and three applicant/inventors for the U.S.: Heinz-Werner MORELL, Dietmar SCHMID, and Raphael SKORUPA.

On 28 December 2005, applicant filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, a translation of the international application into English, and a declaration executed by three persons: Raphael MAYER-WEGELIN, Heinz-Werner MORELL, and Dietmar SCHMID.

On 04 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 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required. The Notification indicated that the declaration filed 28 December 2005 was not acceptable because "the first listed inventor has a name change without documentation."

On 03 July 2006, applicants filed the "Response To Notification Of Missing Requirements And Petition Under 37 CFR 1.182 To Change Inventor Name" considered herein (with required extension fee). The petition requests that the name of record for the inventor identified on the international application as Raphael SKORUPA be changed to Raphael MAYER-WEGELIN, the name used by this inventor on the declaration filed 28 December 2005.

DISCUSSSION

Applicants' 03 July 2006 petition includes an affidavit executed by Raphael MAYER-WEGELIN confirming that, due to marriage, this inventor's name has changed from Raphael SKORUPA (as listed on the international application) to Raphael MAYER-WEGELIN (as listed on the declaration); the petition was accompanied by the required petition fee.

The materials filed 03 July 2006 satisfy the requirements for a grantable petition under 37 CFR 1.182 to change the inventor's name.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of record for inventor Raphael SKORUPA to Raphael MAYER-WEGELIN is **GRANTED**.

Based on the above, the declaration filed 28 December 2005, which identifies as inventors and is executed by Raphael MAYER-WEGELIN, Heinz-Werner MORELL, and Dietmar SCHMID, is now acceptable in compliance with 37 CFR 1.497.

Because the acceptable declaration was filed prior to the expiration of thirty months from the priority date, no surcharge payment is required.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 28 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

The Webb Law Firm, P.C.
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

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APR 0 3 2008

OFFICE OF PETITIONS

In re Application of :
David M. Baylon :
Application No. 10/562,517 : DECISION ON PETITION
Filed: November 22, 2006 : TO WITHDRAW
Attorney Docket No. BCS04236 : 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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the firm of The Webb Law Firm, P.C., has been revoked by the applicant of the patent application on March 26, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

There are no outstanding Office actions at this time.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Barbara E. Johnson, Esq.
555 Grant Street, Suite 323
Pittsburgh, PA 15219

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
10/562,517	06/30/2006	James R. Howard	4400-053057

CONFIRMATION NO. 8067

POWER OF ATTORNEY NOTICE

28289
THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

OC00000002916746S

Date Mailed: 03/31/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/26/2008.

- 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).

/kainabinet/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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

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APR 1 0 2008

OFFICE OF PETITIONS

In re Application of
HOWARD, James R.
Application No. 10/562,522
Filed: June 30, 2006
Attorney Docket No. **4400-053056**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 25, 2008.

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

A review of the file record indicates that the power of attorney to The Web Law Firm, P.C. has been revoked by the assignee of the patent application on March 26, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **BARBARA E. JOHNSON, ESQ.**
555 GRANT STREET, SUITE 323
PITTSBURG, PA 15219

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael Alexander Smith
R D Ongarue Stream Road
Waimiha
Taumarunui 2658 NZ NEW ZEALAND

COPY MAILED

JUN 16 2008

In re Application of :
Smith, et al. : DECISION ON PETITION
Application No. 10/562,525 :
Filed: December 27, 2005 :
For: FENCING INCLUDING VISIBLE :
BAND :

This decision is in response to the petition under 37 CFR 1.137(a), filed March 17, 2008, to revive the above-identified application.

The petition is **DISMISSED WITHOUT PREJUDICE**.

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

The provisions of 37 CFR 1.33(b) state that "[a]mendments 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 patent practitioner of record appointed in compliance with § 1.32(b); (2) A patent practitioner 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."

The instant petition and accompanying reply are not signed by both inventors in accordance with 37 CFR 1.33(b)(4). Accordingly, the petition has not been reviewed on the merits.

Any renewed petition and accompanying reply must be properly executed in accordance with 37 CFR 1.33 prior to treatment on the merits of the petition.

Further, the correspondence address indicated on the petition differs from that contained in the record. This decision is being dually mailed to both addresses as a courtesy. However, as dual correspondence is strictly prohibited, all future correspondence concerning this application will be directed to the correspondence address contained in the record until such time as appropriate instruction is received to the contrary. *See*, enclosure.

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

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

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

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure

CC: Michael Smith
657 Ongarue Stream Road
RD 1
Waimiha 3998
New Zealand

PTO/SB/122 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
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.

CHANGE OF CORRESPONDENCE ADDRESS
Application

Address to:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	
Filing Date	
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	

Please change the Correspondence Address for the above-identified patent application to:

☐ The address associated with Customer Number: [ ]

OR

☐ Firm or Individual Name

Address

City	State	Zip

Country

Telephone	Email

This form cannot be used to change the data associated with a Customer Number. To change the data associated with an existing Customer Number use "Request for Customer Number Data Change" (PTO/SB/124).

I am the:

☐ Applicant/Inventor

☐ Assignee of record of the entire interest.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

☐ Attorney or agent of record. Registration Number _____.

☐ Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number_____.

Signature

Typed or Printed Name

Date	Telephone

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____forms are submitted.

This collection of information is required by 37 CFR 1.33. 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 3 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL ALEXANDER SMITH
CAROLYN YNDRA SMITH
RD1, 657 ONGARUE STREAM ROAD
WAIMIHA
KING COUNTRY 3998 NZ
NEW ZEALAND

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of :
Smith, et al. : DECISION ON PETITION
Application No. 10/562,525 :
Filed: December 27, 2005 :
For: FENCING INCLUDING VISIBLE :
BAND :

This decision is in response to the renewed petition under 37 CFR 1.137(a), filed August 4, 2008, to revive the above-identified application.

The petition is **DISMISSED WITHOUT PREJUDICE**.

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

The provisions of 37 CFR 1.33(b) state that "[a]mendments 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 patent practitioner of record appointed in compliance with § 1.32(b); (2) A patent practitioner 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."

The instant petition and accompanying reply are not signed by both inventors in accordance with 37 CFR 1.33(b)(4). Accordingly, the petition has not been reviewed on the merits.

The renewed petition herein is signed by Michael Alexander Smith. *See*, Petition Page 2. It is noted that the statement (Petition Page 4) concerning the showing of circumstances regarding the nature of the delay has been signed by each inventor. However, the petition itself is required to be signed by all applicants to the application.

It is not apparent that applicants are familiar with USPTO rules, regulations, and petition procedures. Thus, applicants may wish to consult a registered patent attorney or agent with respect to the revival of the instant application.

The USPTO cannot recommend any particular attorney or agent, or aid in the selection of an attorney or agent. A list of Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office may be purchased on DVD-ROM from the USPTO's Office of Electronic Information Products (571-272-5600). The DVD-ROM is also available on the USPTO web site (http://www.uspto.gov) from the "Products and Services Catalog".

To obtain a list of registered patent attorneys and agents for a particular area, customers may either contact a customer service representative through the USPTO Contact Center (see "In General" above), or acquire the information from the USPTO web site. The attorneys and agents list may be examined without charge at Patent and Trademark Depository Libraries (PTDLs) and at many other libraries throughout the U.S. Many large cities also have associations of patent attorneys and agents which may be consulted.

Any renewed petition and accompanying reply must be properly executed in accordance with 37 CFR 1.33 prior to treatment on the merits of the petition.

The request to change of correspondence address, which has been properly executed by both applicants, has been entered into the record.

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

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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 matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MICHAEL ALEXANDER SMITH
CAROLYN YNDRA SMITH
RD1, 657 ONGARUE STREAM ROAD
WAIMIHA
KING COUNTRY 3998 NZ
NEW ZEALAND

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DEC 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Smith, et al. : DECISION ON PETITION
Application No. 10/562,525 :
Filed: December 27, 2005 :
For: FENCING INCLUDING VISIBLE :
BAND :

This decision is in response to the renewed petition under 37 CFR 1.137(a), filed October 20, 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 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 decision.

The application became abandoned July 9, 2007 for failure to timely submit a proper reply to the restriction requirement mailed June 8, 2007. The restriction requirement set a one month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was requested. Notice of Abandonment was mailed January 8, 2008.

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(c).

The petition fails to satisfy requirement (1) set forth above. A proper reply to date has not been submitted. The reply submitted March 17, 2008 is unacceptable as it has not been properly executed in accordance with 37 CFR 1.33(b) in that it has not been signed by each inventor named in the application.

Any renewed petition must be properly executed in accordance with 37 CFR 1.33(b)

The instant petition fails to satisfy requirement (3) set forth above. Petitioner has failed to present 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.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioners argue that a reply to the restriction requirement was "despatched on October 31st through New Zealand Post and DHL to the US Patent and Trademark Office." Petitioners indicate that this reply included a bank draft for $795.00. Petitioners argue that the package containing the reply was lost prior to reaching the USPTO.

The receipt date accorded to correspondence is the date on which the complete transmission is received in the United States

Patent and Trademark Office, unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia. See, 37 CFR 1.6(a)(3).

Petitioners herein have failed to establish that a reply to the restriction requirement was timely received by the USPTO. Instead, petitioners argue that the package containing the reply was lost prior to the delivery to the UPSTO.

Applicants utilizing courier services, such as DHL, do so at their risk. The deposit with a courier service of correspondence intended for the USPTO but lost prior to delivery to the USTPO is not unavoidable delay within the meaning of 37 CFR 1.137(a).

Any renewed petition must establish that the entire period of 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.

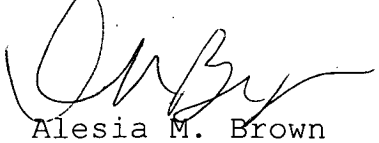
Further correspondence with respect to this matter should be addressed as follows:

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

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

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



Alesia M. Brown
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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OCT 22 2009

OFFICE OF PETITIONS

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

In re Application of :
Jean-Yves **CHANE-CHING et al.** :
Application No. 10/562,526 : DECISION ON PETITION
Filed: May 19, 2006 :
Attorney Docket No. **99342.00074US** :

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 20, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 21, 2009.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on August 21, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1793 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

01 FEB 2007

Kathy Smith Dias
Heslin Rothenberg Farley & Mesiti, P.C.
5 Columbia Circle
Albany, NY 12203-5160

In re Application of
AVIGAD, et al.
Application No.: 10/562,527
PCT No.: PCT/IL04/00578
Int. Filing Date: 30 June 2004
Priority Date: 01 July 2003
Attorney Docket No.: 2723.001
For: PROGNOSIS DETERMINATION IN EWING SARCOMA PATIENTS BY MEANS OF GENETIC PROFILING

REQUEST FOR STATUS

UNDER 37 CFR 1.42

This decision is in response to applicant's communication filed 22 November 2006 in the United States Patent and Trademark Office (USPTO). The communication is being treated as a submission of papers pursuant to 37 CFR 1.42. No fee is required.

BACKGROUND

On 30 June 2004, applicant filed international application PCT/IL04/00578 which claimed a priority date of 01 July 2003. 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 thirty-month period for paying the basic national fee in the United States expired at midnight on 01 January 2006.

On 28 December 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the requisite basic national fee; an unexecuted combined declaration and power of attorney and a First Preliminary Amendment.

On 19 May 2006, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was afforded two months to file the required response and advised that extensions of time were available pursuant to 37 CFR 1.136(a).

On 22 November 2006, applicant filed the declaration discussed herein accompanied by a petition for four-month extension of time and payment of the appropriate extension of time fee. Applicant has provided certification that the present filing was deposited for mailing with the United States Postal Service on 20 November 2006. As such, the present response is considered

timely filed.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

The filed declaration is executed by Haim Marx on behalf of deceased joint inventor Rina Zaizov. However the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that the declaration sets forth the residence, citizenship and post office address for only one individual. In order to comply with 37 CFR 1.497(b), this information must be provided for both the deceased inventor and the legal representative. In addition, while counsel has stated that Mr. Marx is executing the declaration as legal representative to the estate, pursuant to 37 CFR 1.497(b)(2), the relationship must be stated on the declaration itself.

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
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Office of PCT Legal Administration
Tel: (571) 272-3294
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KSP
IAP6 Rec'd PCT/PTO 23 APR 2007

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Kathy Smith Dias
Heslin Rothenberg Farley & Mesiti, P.C.
5 Columbia Circle
Albany, NY 12203-5160

In re Application of
AVIGAD, et al.
Application No.: 10/562,527
PCT No.: PCT/IL04/00578
Int. Filing Date: 30 June 2004
Priority Date: 01 July 2003
Attorney Docket No.: 2723.001
For: PROGNOSIS DETERMINATION IN EWING SARCOMA PATIENTS BY MEANS OF GENETIC PROFILING

REQUEST FOR STATUS

UNDER 37 CFR 1.42

DOCKETED 4/1/07

This decision is in response to applicant's communication filed 22 November 2006 in the United States Patent and Trademark Office (USPTO). The communication is being treated as a submission of papers pursuant to 37 CFR 1.42. No fee is required.

BACKGROUND

On 30 June 2004, applicant filed international application PCT/IL04/00578 which claimed a priority date of 01 July 2003. 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 thirty-month period for paying the basic national fee in the United States expired at midnight on 01 January 2006.

On 28 December 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the requisite basic national fee; an unexecuted combined declaration and power of attorney and a First Preliminary Amendment.

On 19 May 2006, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was afforded two months to file the required response and advised that extensions of time were available pursuant to 37 CFR 1.136(a).

On 22 November 2006, applicant filed the declaration discussed herein accompanied by a petition for four-month extension of time and payment of the appropriate extension of time fee. Applicant has provided certification that the present filing was deposited for mailing with the United States Postal Service on 20 November 2006. As such, the present response is considered

timely filed.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

The filed declaration is executed by Haim Marx on behalf of deceased joint inventor Rina Zaizov. However the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that the declaration sets forth the residence, citizenship and post office address for only one individual. In order to comply with 37 CFR 1.497(b), this information must be provided for both the deceased inventor and the legal representative. In addition, while counsel has stated that Mr. Marx is executing the declaration as legal representative to the estate, pursuant to 37 CFR 1.497(b)(2), the relationship must be stated on the declaration itself.

CONCLUSION

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

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

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

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Kathy Smith Dias
Heslin Rothenberg Farley & Mesiti, P.C.
5 Columbia Circle
Albany, NY 12203-5160

In re Application of :
AVIGAD, et al. :
Application No.: 10/562,527 :
PCT No.: PCT/IL04/00578 : REQUEST FOR STATUS
Int. Filing Date: 30 June 2004 :
Priority Date: 01 July 2003 : UNDER 37 CFR 1.42
Attorney Docket No.: 2723.001 :
For: PROGNOSIS DETERMINATION IN :
EWING SARCOMA PATIENTS BY :
MEANS OF GENETIC PROFILING :

In a decision mailed by this Office on 01 February 2007, the declaration filed by applicant on behalf of deceased inventor Rina Zaizov was dismissed for failure to provide a compliant oath or declaration under 37 CFR 1.497.

On 23 April 2007, applicant filed a response to the previous decision that was accompanied by a revised declaration. The declaration submitted on 23 April 2007 identifies the deceased inventor and states the deceased inventor's country of citizenship and residence, is signed by Haim Marx as "surviving spouse and legal representative," states his/her relationship to the deceased (i.e., Legal Representative), provides the Legal Representative's country of citizenship and residency and lists all of the joint inventors on the application. Accordingly, the declaration complies with the requirements of 37 CFR 1.497(b)(2) and 37 CFR 1.42.

The request for status under 37 CFR 1.42 is GRANTED.

The application has an international filing date of 30 June 2004 under 35 U.S.C. 363 and will be given a date of **23 April 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The application will be forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision.

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

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

Mail Date: 04/21/2010

Applicant	: Masashi Saito	: DECISION ON REQUEST FOR
Patent Number	: 7656452	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/562,530	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **820** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 05/18/2010

Applicant : Masashi Saito
Patent Number : 7656452
Issue Date : 02/02/2010
Application No: 10/562,530
Filed : 12/27/2005

: 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 **883** 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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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 07/09/2010

Applicant	: Jens A Hansen	: DECISION ON REQUEST FOR
Patent Number	: 7641788	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/562,571	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **79** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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STEPHEN D SCANLON
JONES DAY
901 LAKESIDE AVENUE
CLEVELAND, OH 44114

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OFFICE OF PETITIONS

In re Application of

SCHNEIDER, Hans-Jorg
Application No. 10/562,607
Filed: December 28, 2005
Attorney Docket No. **280798610123**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 04, 2008.

The request is **APPROVED**.

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

The request was signed Stephen D. Scanlon on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Klauss Gottschall at the address indicated below.

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **DR. KLAUSS GOTTSCHALL**
CEO, INSTRACTION GmbH
DONNERSBERWEG 1
LUDWIGSHAFEN 67059 DE GERMANY

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LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of :
Kim et al. :
Application No. 10/562,615 : NOTICE
Filed: July 27, 2006 :
Attorney Docket No. 428.1145 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed February 3, 2009.

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) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

03 MAR 2006
United States Patent and Trademark Office

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Alexandria, VA 22313-1450
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John P. Shannon
Merek, Blackmon & Voorhees, LLC
673 South Washington Street
Alexandria, VA 22314

In re Application of
Metternich et al.
Application No.: 10/562,636
PCT No.: PCT/EP04/04410
Int. Filing Date: 27 April 2004
Priority Date: 02 May 2003
Attorney Docket No.: EIS.005
For: Control Device For A Tractor Provided With A System For Detecting Pivoting And Articulating Angles Between Said Tractor And A Trailer

DECISION

ON

PETITION

The petition to revive under 37 CFR 1.137(b) filed 29 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 processing fee under 37 CFR 1.492(i), and the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and an English translation of the international application.

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

11 JUN 2007

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HOWARD & HOWARD ATTORNEYS, P.C.
THE PINEHURST OFFICE CENTER, SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS, MI 48304-5151

In re Application of :
Masatomi et al. :
Application No.: 10/562,656 :
PCT No.: PCT/JP04/09403 :
Int. Filing Date: 25 June 2004 : DECISION
Priority Date: 27 June 2003 :
Attorney Docket No.: 71,051-026 :
For: Coating Composition :

This is in response to the declaration of the inventors filed on 24 November 2006.

BACKGROUND

This international application was filed on 25 June 2004, claimed an earlier priority date of 27 June 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 06 January 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 27 December 2005. Applicant filed *inter alia* the basic national fee on 27 December 2005.

On 07 April 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).

On 01 May 2006, applicants filed a response, including a declaration and the $130.00 surcharge.

On 09 November 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicant, objecting to the declaration filed on 01 May 2006 in view of "MPEP 201.03(II)(B)."

On 09 April 2007, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) to be 24 November 2006.

DISCUSSION

Inspection of the declaration documents filed on 24 November 2006 reveals that one document nominates and is executed by Toru Masatomi and Motoshi Sasaki, while the other declaration document nominates and is executed by Hideki Kobayashi. Neither document nominates the entire inventive entity shown on the published international application. Applicants' attention is drawn to MPEP 201.03, which explains in part that

> **While each inventor need not execute the same declaration, each oath or declaration executed must contain a complete listing of all inventors so as to**

clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

Since neither of the declaration documents filed on 24 November 2006 "contain[s] a complete listing of all inventors," they are not acceptable for purposes of compliance with 37 CFR 1.497(a) and (b). Therefore, the Notice of Acceptance mailed on 09 April 2007 was defective, and it is hereby **VACATED**.

Inspection of the declaration filed on 01 May 2006 reveals that inventors Masatomi and Sasaki are nominated on one page "3 of 3," while inventor Kobayashi is nominated on a separate page "3 of 3." As such, it is not clear from inspection of the declaration itself whether each inventor executed a complete declaration document nominating the entire inventive entity.

DECISION

The declarations filed on 01 May 2006 and 24 November 2006 are **NOT ACCEPTED**, without prejudice.

Since the defective declaration filed on 24 November 2006 was in response to a Notification of Defective Response (Form PCT/DO/EO/916) which set a non-extendable time limit in which to perfect the declaration requirement, and since said time period has now expired, this application stands **ABANDONED** with respect to the national stage in the United States. Applicants may wish to consider filing a petition under 37 CFR 1.137(b) in the event that revival is sought.

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

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
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28 SEP 2007

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THE PINEHURST OFFICE CENTER, SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS, MI 48304-5151

In re Application of	:	
Masatomi et al.	:	
Application No.: 10/562,656	:	
PCT No.: PCT/JP04/09403	:	
Int. Filing Date: 25 June 2004	:	DECISION
Priority Date: 27 June 2003	:	
Attorney Docket No.: 71,051-026	:	
For: Coating Composition	:	

This is in response to the "Petition For Revival Of Abandoned Application" filed on 15 August 2007.

DISCUSSION

In a Decision mailed on 11 June 2007, the declaration filed on 24 November 2006 was reviewed, and treated as follows:

> Inspection of the declaration documents filed on 24 November 2006 reveals that one document nominates and is executed by Toru Masatomi and Motoshi Sasaki, while the other declaration document nominates and is executed by Hideki Kobayashi. Neither document nominates the entire inventive entity shown on the published international application. Applicants' attention is drawn to MPEP 201.03, which explains in part that
>
> **While each inventor need not execute the same declaration, each oath or declaration executed must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.**
>
> Since neither of the declaration documents filed on 24 November 2006 "contain[s] a complete listing of all inventors," they are not acceptable for purposes of compliance with 37 CFR 1.497(a) and (b). Therefore, the Notice of Acceptance mailed on 09 April 2007 was defective, and it is hereby **VACATED**.

Inspection of the declaration filed on 01 May 2006 reveals that inventors Masatomi and Sasaki are nominated on one page "3 of 3," while inventor Kobayashi is nominated on a separate page "3 of 3." As such, it is not clear from inspection of the declaration itself whether each inventor executed a complete declaration document nominating the entire inventive entity.

The Decision further stated that

> Since the defective declaration filed on 24 November 2006 was in response to a Notification of Defective Response (Form PCT/DO/EO/916) which set a non-extendable time limit in which to perfect the declaration requirement, and since said time period has now expired, this application stands **ABANDONED** with respect to the national stage in the United States. Applicants may wish to consider filing a petition under 37 CFR 1.137(b) in the event that revival is sought.

In response, applicants filed the instant petitions under 37 CFR 1.137(a) and 1.137(b).

Petition Under 37 CFR 1.137(a)

37 CFR 1.137(a) provides that

> (a) *Unavoidable.* If the delay in reply by applicant or patent owner was unavoidable, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination proceeding terminated under §§ 1.550(d) or 1.957(b) or (c), or a lapsed patent. A grantable petition pursuant to this paragraph 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 § 1.17(l);
> (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
> (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With regard to **requirement (1)**, petitioner has filed the required reply in the form of a declaration of the inventors which complies with the requirements of 37 CFR 1.497(a) and (b).

Concerning **requirement (2)**,the $500.00 petition fee is being charged to Deposit Account No. 08-2789, as authorized by the instant petition.

With respect to **requirement (3)**, petitioner argues, in essence, that applicants relied upon the 09 April 2007 Notice of Acceptance (and filing receipt) as indicating that the USPTO had accepted the declaration filed on 24 November 2006 in response to the Notification of Missing Requirements mailed on 09 November 2006, and that the delay in filing a further oath or declaration document, acceptable under 37 CFR 1.497(a) and

(b), was unavoidable because applicants were not provided with further notification. Specifically, petitioner suggests that

> If given notice of any issues with the Declaration filed on November 24, 2006, such as by receiving a Second Notification of Defective Response, the Applicants could have filed another timely response addressing any new issues presented by upon investigation of the Declaration. However, the Applicants were given no such opportunity prior to the present application going abandoned.

Petitioner is respectfully advised that the mailing of a Notification of Defective Response, as occurred in this case, is a mechanism intended to offer applicants an opportunity to cure a defective or deficient response. Since a Notification of Defective Response is mailed after applicant has already been given notice of a missing requirement (e.g., via a Notification of Missing Requirements (Form PCT/DO/EO/905)), no new period for response is given; rather, applicant is required to respond within the existing extendable period for response, or within a non-extendable one-month time limit in which to perfect the response, whichever expires later. A further Notification of Defective Response is, by policy, not provided. Therefore, in the present case, petitioner was required to furnish an acceptable oath or declaration no later than 09 December 2006. Applicants' response was filed on 24 November 2006, but failed to perfect the missing requirement for an oath or declaration compliant with 37 CFR 1.497(a) and (b). Even assuming *arguendo* that the USPTO had immediately analyzed the declaration filed on 24 November 2006 and discovered its deficiency at that time, applicants' last opportunity to file an acceptable oath or declaration would have ended on 09 December 2006, the end of the period for response set by the Notification of Defective Response. Meanwhile, the Notice of Acceptance (Form PCT/DO/EO/903) applicants seek to rely upon as an indication that no further response was required was not mailed until 09 April 2007, four months after the latest date on which an acceptable oath or declaration could have been filed to prevent abandonment. In this sense, the mailing of the Notice of Acceptance in no way prejudiced applicants.

It should also be observed that the propriety of the Notice of Acceptance mailed on 09 April 2007 was not reviewed by the Office of PCT Legal Administration until 11 June 2007, at which time it was vacated as having been mailed in error. The fact that this Office did not review the procedural issues in this case until 11 June 2007 did not and does not relieve applicants of their duty to provide an appropriate reply to the Notification of Defective Response, though the time period for doing so had expired 6 months prior.

For these reasons, it would not be appropriate to conclude on the basis of the present record that requirement (3) has been satisfied.

Regarding **requirement (4)**, no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

Petition Under 37 CFR 1.137(b)

Petitioner requests relief pursuant to 37 CFR 1.137(b) in the event that relief is not granted under 37 CFR 1.137(a). 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" has been provided, as described above.

Regarding **requirement (2)**, the $1500.00 petition fee is being charged to Deposit Account No. 08-2789, as authorized by the instant petition.

Regarding **requirement (3)**, the petition states that "the entire delay in filing the required reply from the due date for the required reply until the filing of the subject petition under 37 CFR § 1.137(b) was unintentional." This is being construed as a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement is not correct. Said statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding **requirement (4)**, no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(a) is **DISMISSED**, without prejudice.

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

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **15 August 2007**.

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

09/28/2007 SWASHEIR 00000006 082789 10562656
Sale Ref: 00000007 DAN: 082789 10562656
01 FC:1452 500.00 DA
02 FC:1453 1500.00 DA

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HOWARD & HOWARD ATTORNEYS, P.C.
THE PINEHURST OFFICE CENTER, SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS, MI 48304-5151

In re Application of :
Masatomi et al. :
Application No.: 10/562,656 :
PCT No.: PCT/JP04/09403 :
Int. Filing Date: 25 June 2004 : DECISION
Priority Date: 27 June 2003 :
Attorney Docket No.: 71,051-026 :
For: Coating Composition :

This is in response to the "Request For Refund" filed on 22 July 2008.

DISCUSSION

On 15 August 2007, petitioner filed a petition for relief under 37 CFR 1.137(a) and, "in the alternative," 37 CFR 1.137(b).

In a Decision mailed on 28 September 2007, the petition under 37 CFR 1.137(a) was considered and dismissed, without prejudice, and the petition under 37 CFR 1.137(b) was granted.

Petitioner now requests a refund of the petition fee for the petition under 37 CFR 1.137(a), for the reason that the petitions were made "in the alternative." However, petitioner is respectfully advised that the petition filed on 15 August 2007 requested relief under 37 CFR 1.137(a), and that in response to that petition, the issues present in the case were analyzed under 37 CFR 1.137(a). Under the facts present in the application, that analysis led to a dismissal, without prejudice. In response to petitioner's request, the facts were then analyzed under 37 CFR 1.137(b), and the petition under 37 CFR 1.137(b) was granted. Since proper treatment of the petition required analysis under both 37 CFR 1.137(a) and 1.137(b), both petition fees were required. Since payment of both petition fees was appropriate, a refund under these circumstances would not be proper.

DECISION

The refund request is **DISMISSED**, without prejudice.

Any request for reconsideration of this issue must be filed within **TWO (2) MONTHS** of the mailing date of this decision, extendable under 37 CFR 1.136(a).

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

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

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GKN Driveline/TTG
c/o Kristin L. Murphy
39533 Woodward Avenue, suite 140
Bloomfield Hills, MI 48304

Mail Date: 04/21/2010

Applicant	: Ulrich Brochheuser	: DECISION ON REQUEST FOR
Patent Number	: 7644601	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/562,658	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **286** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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JAN 19 2007

OFFICE OF PETITIONS

Applicant: Rosler et al.
Appl. No.: 10/562,678
International Filing Date: July 9, 2004
Title: METHOD FOR MACHINING A WORKPIECE MADE FROM A TITANIUM-BASED ALLOY
Attorney Docket No.: P29080
Pub. No.: US 2006/0157542 A1
Pub. Date: July 20, 2006

This is a decision on the paper requesting a corrected publication under 37 CFR 1.221(b) received on June 13, 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 as the first inventor's name and residence "Joachim Roesler, Braunschweig" is misprinted as "Joachim Rosler, Lammer Heide" and the second inventor's name and residence Martin Backer, Braunschweig" is misprinted as "Martin Baker, Sandkamp."

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 instant request does not identify a material mistake in the publication made by the Office under 37 CFR 1.221. The inventor's names are spelled as they appear on the oath/declaration. The errors with respect to the cities of residence are not material Office errors under 37 CFR 1.221. The errors do not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to

[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).

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

On April 11, 2006, a Filing Receipt was mailed by the Office, which listed the inventor's names and residences as published on the front page of the publication. To avoid this type of problem or to make a change in the inventor's names in the future, applicant's representative should make request a corrected filing receipt along with a supplemental application data sheet.

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

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

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

By facsimile: 571-273-8300

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

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

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 05/20/2010

Applicant	: Andre Vioux	: DECISION ON REQUEST FOR
Patent Number	: 7622422	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/562,680	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **696** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Johanan Hershtik	: DECISION ON REQUEST FOR
Patent Number	: 7573567	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/562,683	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **631** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

In re Application of :
GRIJPMA, Dirk Wybe et al. :
Application No. 10/562,706 : DECISION ON PETITION
Filed: April 18, 2008 : TO WITHDRAW
Attorney Docket No. **5100-000030/US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 25, 2008.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

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

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed.

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

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **MR. BRYAN H. DAVIDSON**
NIXON & VANDERHYE P.C.
901 NORTH GLEBE ROAD
11TH FLOOR
ARLINGTON, VA 22203-1808

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RESTON VA 20195

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In re Application of :
GRIJPMA, Dirk W. et al. :
Application No. 10/562,706 : DECISION ON PETITION
Filed: April 18, 2008 : TO WITHDRAW
Attorney Docket No. **5100-000030/US** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 30, 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 Donald Daley on behalf of all attorneys of record who are associated with customer No. 30596. All attorneys/agents associated with the Customer Number 30596 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: **DIRK W. GRIJPMA**
IR. M. SCHEFFERLAAN 31
NL-7556 CP HENGELO
THE NETHERLANDS

cc: **NIXON & VANDERHYE P.C.**
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203-1808

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10 APR 2007

Miriam Kaplan
Lumen IPS
2345 Yale Street, 2nd Floor
Palo Alto, CA 94306

In re Application of :
GOLDSON, et al. :
U.S. Application No.: 10/562,717 : DECISION ON PETITION
PCT No.: PCT/NZ04/00137 :
Int. Filing Date: 01 July 2004 : UNDER 37 CFR 1.47(a)
Priority Date: 03 July 2003 :
Attorney Docket No.: JAW-101/PCT/US :
For: A METHOD OF AND APPARATUS FOR :
DETECTING THE PRESENCE OF SIGNATURE :
VOLATILE COMPOUNDS FROM MATERIALS :
IN A CONFINED ENVIRONMENT :

This decision is in response to the applicant's "Petition Under 37 CFR 1.47 Filing When an Inventor Refuses to Sign " filed 18 September 2006 in the United States Patent and Trademark Office (UPSTO) to accept the application without the signature of joint inventor Terrance John Braggins.

BACKGROUND

On 01 July 2004, applicant filed international application PCT/NZ04/00137 which claimed priority to an earlier application filed 03 July 2003. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 13 January 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 03 January 2006.

On 23 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 an Information Disclosure Statement.

On 14 April 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 18 September 2006, applicant filed the present petition under 37 CFR 1.47

accompanied by a petition for a three-month extension of time and certification under 37 CFR 1.8 that the response was deposited for mailing on 13 September 2006. As such, the 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) and (3) above.

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

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

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

> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47... The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as Internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should include a statement of facts. It is important that the statement contain facts as opposed to conclusions.

Applicant has not included a firsthand statement that the non-signing inventor was mailed a complete set of application papers. Thus, it is not possible to take the inventor's subsequent silence as a refusal to cooperate as there is a question as to whether the mailing address used was correct and a complete set of application papers was mailed to Mr. Braggins. In addition, applicant has not provided any exhibits to support the contention that Mr. Braggins has not responded to postal and telephone communications.

Regarding item (4), while applicant has submitted a declaration signed by the remaining inventors on their own and on behalf of the non-signing inventors, the declaration does not comply with 37 CFR 1.497. The declaration contains two pages numbered "Page 2 of 2." This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signatures pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.)

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

CONCLUSION

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

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

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United States Patent and Trademark Office
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20 JUL 2007

Miriam Kaplan
Lumen IPS
2345 Yale Street, 2nd Floor
Palo Alto, CA 94306

In re Application of	:	
GOLDSON, et al.	:	
U.S. Application No.: 10/562,717	:	DECISION ON RENEWED
PCT No.: PCT/NZ04/00137	:	
Int. Filing Date: 01 July 2004	:	PETITION UNDER
Priority Date: 03 July 2003	:	
Attorney Docket No.: JAW-101/PCT/US	:	37 CFR 1.47(a)
For: A METHOD OF AND APPARATUS FOR DETECTING THE PRESENCE OF SIGNATURE VOLATILE COMPOUNDS FROM MATERIALS IN A CONFINED ENVIRONMENT	:	

This decision is in response to the applicant's "Renewed Petition Under 37 CFR 1.47" filed 05 July 2007 in the United States Patent and Trademark Office (UPSTO) to accept the application without the signature of joint inventor Terence John Braggins.

BACKGROUND

On 10 April 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration.

On 05 July 2007, applicant filed the present renewed petition accompanied by a petition for a one-month extension of time and payment of the appropriate extension of time fee. With payment of the one-month extension of time fee, the present response is considered timely filed.

DISCUSSION

As detailed in the decision mailed 10 April 2007, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items (1) and (3) above.

With the filing of the present renewed petition and accompanying documentation applicant has satisfied the remaining two items. Specifically, applicant has provided a letter from the non-signing inventor indicating that he is aware of the particular application and refuses to

sign the declaration. In addition, applicant has presently provided a declaration which complies with 37 CFR .1497(a)-(b). Pursuant to MPEP 605.04, although the filed declaration misspells the name of inventor Braggins, since applicant has detailed the correct spelling and this is a mere typographical error a new petition and declaration is not required.

CONCLUSION

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

The application has an international filing date of 01 July 2004 under 35 U.S.C. 363, and will be given a date of **05 July 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 inventor at his last known address of record.

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

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/20/2010

Applicant	: Shigeru Morita	: DECISION ON REQUEST FOR
Patent Number	: 7589234	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/562,730	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **190** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 19104-2891

COPY MAILED

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OFFICE OF PETITIONS

In re Application of :

HUMPRHEYS, David P. et al. :
Application No. 10/562,746 : DECISION ON PETITION
Filed: June 16, 2006 : TO WITHDRAW
Attorney Docket No. **CELL-0309** : 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, no longer represents this client, does 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 & BERHOFF LLP
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

10 DEC 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of	:	
COLLINS, Martin et al.	:	
Application No.: 10/562,750	:	DECISION
PCT No.: PCT/IB2004/002436	:	
Int. Filing Date:01 July 2004	:	ON PETITION UNDER
Priority Date: 04 July 2003	:	
Docket No.: ABE-39290	:	37 CFR 1.47(a)
For: CABINET REFRIGERATING SYSTEM	:	

This is a decision on applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 17 September 2008.

BACKGROUND

On 19 February 2008, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 17 September 2008, applicants filed a petition under 37 CFR 1.47(a) accompanied by a declaration of the inventors and the fee for a 5 month extension of time.

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 nonsigning applicant.

Item (1) and (3) have been met. The $200 petition fee has been paid. Applicant states the last known address of Dan Joslin as 1 Agness Lane; New Milford, CT 06776.

Item (2) has not been satisfied. Applicants must establish that applicants have made a diligent effort to locate the nonsigning inventor and to obtain his signature on the oath or declaration. The forwarding address for the last known mailing address of the nonsigning inventor has expired and it is unclear when he was last known to reside at that address. It is unclear why applicants would restrict their white pages search for an address for Mr. Joslin to the town of New Milford. Further, what is the significance of the address listed for Mr. Joslin on the declaration? It is not a New Milford or even a Connecticut address. Further efforts are required.

Item (4) has not been satisfied. While it is acceptable for inventors to execute separate copies of the declaration, each inventor must execute a declaration in compliance with 37 CFR 1.497(a)-(b), listing each inventor and each inventor's citizenship. The complete declaration executed by each inventor must

be returned to the Office. MPEP 605.04(a). Separate declarations may not be pieced together to create a single composite declaration. The declaration does not comply with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicant's 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. Extensions of time under 37 CFR 1.136(a) are available. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

0 3 APR 2009

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PEARNE & GORDON LLP
1801 East 9th Street,
Suite 1200
Cleveland, OH 44114-3108

In re Application of
COLLINS *et al*
Application No.: 10/562,750
PCT No.: PCT/IB2004/002436
Int. Filing Date: 01 July 2004
Priority Date: 04 July 2003
Docket No.: ABE-39290
For: CABINET REFRIGERATING SYSTEM

DECISION ON

RENEWED PETITION

UNDER 37 CFR 1.47(a)

This is a decision on applicants' renewed petition under 37 CFR 1.47(a), filed 03 February 2009.

BACKGROUND

On 10 December 2008, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 03 February 2009, applicants filed the renewed petition which was accompanied by, *inter alia*, an executed declaration, a second declaration by Ivan Goldberg and documentary evidence in support of the renewed petition.

DISCUSSION

As previously noted, 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(s) on their behalf and on behalf of the nonsigning joint inventor. Item (2) and (4) were not satisfied in the initial petition.

Regarding item (2), petitioners submitted a declaration by Ivan R. Goldberg detailing the efforts to locate the nonsigning inventor, Dan Joslin. Petitioners also provided documentary evidence of the searches.

A review of the evidence indicates that petitioners have provided ample evidence showing that a diligent effort was made to locate the nonsigning inventor. Petitioners detailed their efforts to locate and contact persons to determine whether they were the nonsigning inventor. The requisite documentary evidence was provided. This evidence along with the previously filed evidence in the original petition is sufficient to satisfy item

(2) of 37 CFR 1.47(a).

Concerning item (4), petitioners included a complete copy of each declaration signed by three of the four joint inventors listed on the international publication. The declaration is in compliance with 37 CFR 1.497(a) and (b) and meets the requirements of section 409.03(a)(A) of the MPEP. Item (4) of 37 CFR 1.47(a) is now satisfied.

All items 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 01 July 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 03 February 2009.

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

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

03 APR 2009

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Dan Joslin
1 Agnes Lane
New Milford, CT 06776

In re Application of
COLLINS *et al*
Application No.: 10/562,750
PCT No.: PCT/IB2004/002436
Int. Filing Date: 01 July 2004
Priority Date: 04 July 2003
Docket No.: ABE-39290
For: CABINET REFRIGERATING SYSTEM

Dear Mr. Joslin:

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

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

PEARNE & GORDON LLP
1801 East 9th Street,
Suite 1200
Cleveland, OH 44114-3108

1 3 NOV 2007

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Quarles & Brady LLP
411 East Wisconsin Avenue
Milwaukee, WI 53202

In re Application of :
KONONOV et al. :
Application No.: 10/562,752 :
PCT No.: PCT/IB04/01861 :
Int. Filing: 08 June 2004 : DECISION ON PETITION
Priority Date: 04 July 2003 : UNDER 37 CFR 1.47(a)
Attorney Docket No.: 871308.00003 :
For: GAS MONITORING APPARATUS :

This decision is issued in response to applicants' "Petition under 37 CFR 1.47(a) to Accept a Patent Application Made By Other Inventors on Behalf of Non-Signing Inventor (Valery Alexandrovich Kononov)" filed 06 November 2006. Additionally, this decision is issued in response to "Supplemental Petition under 37 CFR 1.47(a) to Accept a Patent Application Made By Other Inventors on Behalf of Non-Signing Inventor" filed 08 November 2007. The $200 petition fee has been submitted.

BACKGROUND

On 08 June 2004, applicants filed international application PCT/IB04/01861 which claimed a priority date 04 July 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, 04 January 2006.

On 29 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 a preliminary amendment.

On 06 November 2006, applicants filed a petition under 37 CFR 1.47(a).

On 08 November 2007, applicants filed "Supplemental Petition under 37 CFR 1.47(a) to Accept a Patent Application Made By Other Inventors on Behalf of Non-Signing Inventor."

DISCUSSION

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

Applicants here have submitted the appropriate petition fee. Item (1) is therefore satisfied.

Regarding item (2), the petition asserts that the nonsigning 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 nonsigning 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 Valery Alexandrovich Kononov's refusal to execute the application papers is contained in the declaration (of facts under 37 CFR 1.47(a)) included in the petition, and the exhibits thereto. These materials provide the required firsthand statement regarding the delivery to the nonsigning inventor of a copy of the complete application, and the nonsigning inventor's refusal to execute the application, with documentary evidence supporting the statement. Item (2) is therefore satisfied.

Regarding item (3), applicants have provided the last known address of the nonsigning inventor. Accordingly, item (3) is therefore satisfied.

Regarding item (4), section 409.03(a) of the Manual of Patent Examining Procedure ("MPEP") states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by one of the two inventors and including an unsigned signature box identifying the nonsigning inventor (Valery Alexandrovich Kononov). This declaration is treated as having been executed by the available inventors on their behalf and on behalf of the nonsigning inventor. Item (4) is therefore satisfied.

For the reasons stated above, it is appropriate to accept the application without the signature of Valery Alexandrovich Kononov under 37 CFR 1.47(a) at this time.

CONCLUSION

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

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

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

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

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

13 NOV 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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Valery Alexandrovich Kononov
12 Stamperboom Road Weltevreden Park
Johannesburg
1709
Gauteng, South Africa

In re Application of
KONONOV et al.
Application No.: 10/562,752
PCT No.: PCT/IB04/01861
Int. Filing: 08 June 2004
Priority Date: 04 July 2003
Attorney Docket No.: 871308.00003
For: GAS MONITORING APPARATUS

Dear Valery Alexandrovich Kononov :

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

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

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

Counsel of Record:
Quarles & Brady LLP
411 East Wisconsin Avenue
Milwaukee, WI 53202

Quarles & Brady LLP

411 East Wisconsin Avenue
Suite 2040
Milwaukee, Wisconsin 53202-4497
Phone: 414/277-5000
FAX: 414/271-3552
414/277-5591

Attorneys at Law in
Milwaukee and Madison, Wisconsin
Phoenix and Tucson, Arizona
Chicago, Illinois
Naples, Florida

FAX TRANSMITTAL COVER SHEET

RECEIVED
- 8 NOV 2007
Legal Staff
International Division

To: **Examiner Anthony Smith**
Company: U.S. Patent & Trademark Office
Fax number: 1 571-273-0459
Phone number:

From: **Kathy McGraw**
Phone number: 414-277-5740
Senders direct fax:

Number of Pages (including cover sheet): 02
Date & Time Faxed: Thursday, November 08, 2007 3:05:20 PM
Message:

THE INFORMATION CONTAINED IN THIS MESSAGE IS PERSONAL AND CONFIDENTIAL FOR THE RECIPIENT(S) NAMED ABOVE. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THIS MESSAGE TO US BY MAIL. THANK YOU.

IN CASE OF ANY TRANSMISSION PROBLEM, CALL (414) 277-5595 EXCEPT AFTER 5:30 PM CENTRAL TIME, CALL (414) 277-5404

I hereby certify that this correspondence is being transmitted by facsimile to Examiner Anthony Smith at the U.S. Patent and Trademark Office at 571-273-0459.

Date of Signature
and Transmission: November 8, 2007

John D. Franzini, Reg. No. 31,356

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Valery Alexandrovich Kononov, *et al.*

Serial No. 10/562,752

Filed: PCT Filing Date June 8, 2004

For: Gas Monitoring Apparatus

SUPPLEMENTAL PETITION UNDER 37 C.F.R. 1.47(a) TO ACCEPT A PATENT APPLICATION MADE BY OTHER INVENTORS ON BEHALF OF NON-SIGNING INVENTOR

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is regarding the telephone conference with Examiner Anthony Smith on November 8, 2007.

The last known address for the non-signing inventor, Valery Alexandrovich Kononov is 12 Stamperboom Road, Weltevreden Park, Johannesburg, 1709, Gauteng, South Africa.

Please charge any necessary fee to Deposit Account No. 17-0055.

Respectfully submitted,
Valery Alexandrovich Kononov, *et al.*

Dated: November 8, 2007

By: _____
John D. Franzini
Registration No. 31,356

Quarles & Brady LLP
411 E. Wisconsin Avenue Suite 2040
Milwaukee, WI 53202-4497
Telephone (414) 277-5747

UNITED STATES PATENT AND TRADEMARK OFFICE

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CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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OFFICE OF PETITIONS

In re Application of

HEYWOOD, Sam P. et al.
Application No. 10/562,769
Filed: June 27, 2006
Attorney Docket No. **CELL- 0308**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 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, no longer represents this client, does not meet any of the conditions set forth in 37 CFR 10.40.

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MICHAEL S. GREENFIELD**
MCDONNELL BOEHNEN HULBERT & BERHOFF LLP
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,772	10/03/2008	Hideo Kohda	90606.71/ta	7859

7590 03/23/2009

YAMAHA HATSUDOKI KABUSHIKI KAISHA
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

EXAMINER	
RUTHKOSKY, MARK	
ART UNIT	**PAPER NUMBER**
1795	
NOTIFICATION DATE	**DELIVERY MODE**
03/23/2009	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

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

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,775	04/10/2006	Dieter Jorgens	P05,0424	7977

26574 7590 11/16/2007

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

EXAMINER	
VU, KIM Y	
ART UNIT	**PAPER NUMBER**
2135	

MAIL DATE	DELIVERY MODE
11/16/2007	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.

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TECHNOLOGY CENTER 2100

Schiff Hardin, LLP
Patent Department
6600 Sears Tower
Chicago IL 60606-6473

In re Application of:
Deiter Jorgens et al.
Appl. No.: 10/562,775
Filed: April 10, 2006
For: System Method and Device for Printing Sensitive Data

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed October 24, 2007 to expunge the IDS received on June 28, 2006.

The petition is **GRANTED**.

Petitioner requests that the IDS received June 28, 2006, be expunged from the record as the paper was filed in the wrong application. Petitioner statements meet the requirements of 37 CFR § 1.59(b) and the petition fee set forth in 37 CFR § 1.17(h) has been paid.

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 closed from public view and will not be returned to applicant or petitioner.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3612.

Tod Swann
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and
Information Security

Cc: Donald Daley
P.O. Box 8910
Reston, VA 20195

0 8 FEB 2007

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NIXON PEABODY LLP - PATENT GROUP
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER, NY 14603-1051

In re Application of ZHONGLIN et al	:	
U.S. Application No.: 10/562,778	:	
PCT Application No.: PCT/AU2004/000873	:	
Int. Filing Date: 30 June 2004	:	
Priority Date Claimed: 01 July 2003	:	DECISION
Attorney Docket No.: 2354/370	:	
For: METHODS AND COMPOSITIONS FOR TREATING DISORDERS OF THE EXTRACELLULAR MATRIX	:	

This is in response to applicant's "Request for Correction of Inventorship Under 37 C.F.R. § 1.497(d)" filed 12 December 2006.

BACKGROUND

On 30 June 2004, applicant filed international application PCT/AU2004/000873, which claimed priority of an earlier Australia application filed 01 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 01 January 2006.

On 29 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 27 July 2006, applicant filed an executed declaration.

On 13 November 2006, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration filed 27 July 2006 listed inventors who are not listed as inventors in the international application.

On 12 December 2006, applicant filed the present petition under 37 CFR 1.497(d).

DISCUSSION

The petition states that Mark Cooper and Zemin Cao should be added as inventors.

37 CFR 1.497(d) (effective 07 November 2000) states,

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

With regard to item (1) above, the requisite statements have been provided.

With regard to item (2) above, the requisite processing fee has been provided.

With regard to item (3) above, written consent of the assignee has been provided.

Although the petition is sufficient to add Mark Cooper and Zemin Cao as inventors, the declaration lists the first inventor as Zhonglin Chai, whereas the international application and the application data sheet (ADS) filed 29 December 2005 lists the first inventor as Chai Zhonglin. The petition under 37 CFR 1.497(d) does not satisfy items (1) and (3) with respect to the first inventor.

CONCLUSION

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

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

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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NIXON PEABODY LLP - PATENT GROUP
CLINTON SQUARE
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ROCHESTER, NY 14603-1051

In re Application of CHAI et al :
U.S. Application No.: 10/562,778 :
PCT Application No.: PCT/AU2004/000873 :
Int. Filing Date: 30 June 2004 :
Priority Date Claimed: 01 July 2003 : DECISION
Attorney Docket No.: 2354/370 :
For: METHODS AND COMPOSITIONS FOR :
TREATING DISORDERS OF THE :
EXTRACELLULAR MATRIX :

This is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.497(d)" filed 16 April 2007.

BACKGROUND

On 30 June 2004, applicant filed international application PCT/AU2004/000873, which claimed priority of an earlier Australia application filed 01 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 01 January 2006.

On 29 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 27 July 2006, applicant filed an executed declaration.

On 13 November 2006, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration filed 27 July 2006 listed inventors who are not listed as inventors in the international application.

On 12 December 2006, applicant filed a petition under 37 CFR 1.497(d).

On 09 February 2007, this Office mailed a decision dismissing the 12 December 2006 petition.

On 16 April 2007, applicant filed the present renewed petition under 37 CFR 1.497(d).

DISCUSSION

The petition states that Mark Cooper and Zemin Cao should be added as inventors and that the first and last names of the first listed inventor were transposed in the international application.

37 CFR 1.497(d) (effective 07 November 2000) states,

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

With regard to item (1) above, the requisite statements have been provided.

With regard to item (2) above, the requisite processing fee has been provided.

With regard to item (3) above, written consent of the assignee has been provided.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.497(d) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 30 June 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 27 July 2006.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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ROBERT D. SHEDD
THOMSON LICENSING LLC
P.O. BOX 5312
TWO INDEPENDENCE WAY
PRINCETON, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Louis Chevallier	: DECISION ON REQUEST FOR
Patent Number	: 7590938	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/562,779	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **798** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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OFFICE OF PETITIONS

In re Application of :

HUMPHREYS, David P. et al. :
Application No. 10/562,807 : DECISION ON PETITION
Filed: **CELL-0307** : TO WITHDRAW
Attorney Docket No. **CELL-0307** : 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, no longer represents this client, does not meet any of the conditions set forth in 37 CFR 10.40.

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MICHAEL S. GREENFIELD**
MCDONNELL BOEHNEN HULBERT &
BERGHOFF LLP
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

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SUITE 1201
NEW YORK, NY 10038

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OFFICE OF PETITIONS

In re Application of :
MEIR, Amir et al. :
Application No. 10/562,808 : DECISION ON PETITION
Filed: December 29, 2005 : TO WITHDRAW
Attorney Docket No. **ELG-P-5997US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2007.

The request is **NOT APPROVED**.

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

The request to withdraw less than all attorneys appointed by customer number 43214 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

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

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Customer# 56639**
EMPK & SHILOH, LLP
116 JOHN ST,
SUITE 1201
NEW YORK, NY 10038

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OFFICE OF PETITIONS

In re Application of :
Sano et al. :
Application No. 10/562,811 : ON APPLICATION FOR
Filed: December 29, 2005 : PATENT TERM ADJUSTMENT
Docket No. 1012774-000006 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(B), filed April 27, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is seven hundred nineteen (719) days, not five hundred six (506) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment (1) as it relates to the Office's failure to issue the patent within 3 years of the filing date and (2) as it relates to the filing of an Information Disclosure Statement after the mailing of the Notice of Allowance, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

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

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

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

The $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) is being charged to deposit account no. 02-4800.

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 the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

16 JUN 2008

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Wenderoth, Lind & Ponack, LLP
2033 K Street, N.W.
Suite 800
Washington, D.C. 20006-1021

In re Application of :
OOTAKE, et al. :
Application No.: 10/562,817 : DECISION ON PETITION
PCT No.: PCT/JP04/09618 :
Int. Filing Date: 30 June 2004 : UNDER 37 CFR 1.181
Priority Date: 30 June 2003 :
Attorney Docket No.: 2005-2006A :
For: ORGANOSILICON COMPOUND AND PRODUCTION PROCESS FOR THE SAME, AND POLYSILOXANE AND PRODUCTION PROCESS FOR THE SAME :

This decision is in response to applicant's "Request For Corrected Filing Receipt" filed 05 May 2006 and again on 14 January 2008, requesting that the United States Patent and Trademark Office (USPTO) correct the 371(c) date for the above captioned application to 25 January 2006. The request is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 30 June 2004, applicant filed international application PCT/JP04/09618, which claimed a priority date of 30 June 2004. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 06 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 30 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 25 January 2006, applicant filed an executed combined declaration and power of attorney.

On 04 April 2006, applicant was mailed a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495" (Form PCT/DO/EO/903) indicating a date of completion of all 35 U.S.C. 371 requirements of 30 December 2005.

On 05 May 2006, applicant filed the petition considered herein.

DISCUSSION

A review of the application filed finds that the last of the 35 U.S.C. 371 requirements was filed in the USPTO on 25 January 2006. As such, it is proper to **GRANT** applicant's petition at this time.

The application has an international filing date of 30 June 2004 under 35 U.S.C. 363 and will be given a date of **25 January 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 1.495" (Form PCT/DO/EO/903) mailed 04 April 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 1.495" (Form PCT/DO/EO/903) and a corrected filing receipt indicating the correct 371 date as detailed above.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
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Millen White Zelano & Branigan
Arlington Courthouse Plaza 1
2200 Clarendon Boulevard, Suite 1400
Arlington VA 22201

In re Application of FUJISATO et al. Serial No.: 10/562,833 PCT No.: PCT/JP04/09436 Int. Filing Date: 02 July 2004 Priority Date: 04 July 2003 Attorney's Docket No.: AKA-0292 For: METHOD AND SYSTEM FOR INJECTING CELLS INTO BIOLOGICAL TISSUE	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "Request for Withdrawal of Improper Notice of Abandonment", treated as a petition under 37 CFR 1.181, filed 21 January 2009 in the United States Patent and Trademark Office (USPTO) in the above-captioned application.

BACKGROUND

On 30 December 2005, applicant filed the U.S. national stage application for international application PCT/JP04/09436, under 35 U.S.C. 371. These papers were assigned U.S. serial number 10/562,833.

On 10 July 2006, a Notification of Missing Requirements, was mailed to applicant indicating, *inter alia*, that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 06 September 2006, applicant filed a response. A two page Response and a copy of the Notification of Missing Requirements is found in the application file. However, a copy of the declaration allegedly filed as part of the response is not found in the application file.

On 02 April 2007, a Notification of Defective Response was mailed to applicant indicating that a declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 02 May 2007, applicant filed a response to the Notification of Defective Response accompanied by only the first page of the declaration. The signature pages were not attached.

On 20 November 2008, a Notification of Abandonment was mailed to applicant indicating that applicant failed to respond to the Notification of Missing Requirements.

On 21 January 2009, applicant filed the instant petition, accompanied by a copy of the declaration and an itemized postcard receipt with USPTO date-stamp 06 September 2006, indicating receipt of the identified documents.

DISCUSSION

Applicant requests withdrawal of the holding of abandonment, indicating that a response to the Notification of Missing Requirements, was originally mailed on 06 September 2006.

As stated in section 503 of the Manual of Patent Examining Procedure (Rev. 7, July 2008(MPEP):

> A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Applicant states that the executed declaration for the international application was originally filed on 06 September 2006 and provided a copy of the USPTO date-stamped postcard receipt. The postcard identifies the application number, applicant name and docket number. Among the items listed on the postcard receipt are "Missing Parts Response W/DECL.". Fees of $130 were also noted. The postcard is date-stamped by the USPTO "OIPE SEP 06 2006."

A review of the USPTO date-stamped, itemized postcard receipt indicates that the declaration and $130 fee were deposited with the USPTO on 06 September 2006. Applicant has now presented a copy of the papers originally filed on 06 September 2006 and provided a copy of the date-stamped postcard receipt. Thus, the evidence is sufficient to establish that the documents were received in the USPTO on 06 September 2006 and that the postcard receipt indicating a date of 06 September 2006 was mailed by the USPTO. Accordingly, the Office accepts the copy of the papers as a replacement for the missing original documents with a deposit date of 06 September 2006.

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

CONCLUSION

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

The 20 November 2008 Notification of Abandonment is hereby **VACATED**.

The copy of the declaration originally submitted on 06 September 2006 and resubmitted on 21 January 2009 are acceptable. The declaration meets the requirements of 37 CFR 1.497(a) and (b). The surcharge of $130 was paid on 06 September 2006.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **06 September 2006.**

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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Facsimile: (571) 273-0459

03 APR 2009

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WASHINGTON DC 20037

In re Application of	:	
Toyoda et al.	:	
Application No. 10/562,836	:	
PCT App. No.: PCT/JP04/09760	:	DECISION
Int. Filing Date: 02 July 2004	:	
Priority Date: 04 July 2003	:	
Atty. Docket No.: Q91905	:	
For: Tire Vulcanizing System And Method For Vulcanizing Tire	:	

This is in response to the "Request For Corrected Official Filing Receipt" filed on 31 July 2007

BACKGROUND

International application PCT/JP2004/009760 was filed on 02 July 2004 and claimed an earliest priority date of 04 July 2003. The U.S. was designated. The International Bureau transmitted 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 04 January 2006. Applicants paid the basic national fee on 29 December 2005. On 06 February 2007, applicants filed a submission including a declaration.

On 05 March 2007, a Filing Receipt and a Notice of Acceptance (Form PCT/DO/EO/903) reflecting a date under 35 U.S.C. 371(c)(1), (2) and (4) of "02/07/2007" were mailed.

DISCUSSION

Counsel requests the issuance of a corrected filing receipt showing a "Filing Date" of "February 6, 2007," and indicates that "verification for the requested correction is indicated on the Assignment and PTO Filing Receipt filed February 6, 2007." This is interpreted as a reference to the copy of a return postcard receipt which accompanies the instant request. Review of the postcard receipt reveals that it itemizes, *inter alia*, the "Submission of Executed Declaration (in duplicate) with a copy of the executed Declaration and Power of Attorney, and a check in the amount of $130.00." The postcard receipt is stamped as received by the USPTO on "FEB 06 2007." MPEP 503 explains in part that "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Following that practice, the executed declaration and surcharge under 37 CFR 1.492(h) are regarded as filed on 06 February 2007. Therefore, the requirements of 35 U.S.C. 371(c)(1), (2) and (4) were completed on 06 February 2007. Accordingly, the Filing Receipt and a Notice of Acceptance mailed on 05 March 2007 are hereby **VACATED**.

DECISION

The request is **GRANTED** .

This application is being returned to the Office of Patent Application Processing for the preparation and mailing of a corrected filing receipt and a new Notice of Acceptance (Form PCT/DO/EO/903) showing a date under 35 U.S.C. 371(c)(1), (2) and (4) of **06 February 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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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Katsuhiko Nishiwaki	: DECISION ON REQUEST FOR
Patent Number	: 7579652	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/562,839	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **296** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/21/2010

Applicant	: Hirohide Nakata	: DECISION ON REQUEST FOR
Patent Number	: 7595789	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/562,862	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **944** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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19 DEC 2006

49443
PEARL COHEN ZEDEK LLP
1500 BROADWAY, 12TH Floor
New York, NY 10036

In re Application of :
GLUKHOVSKY *et al* :
U.S. Application No.: 10/562,865 :
PCT No.: PCT/US03/27804 :
Int. Filing Date: 04 September 2003 : **DECISION**
Priority Date: 04 September 2002 :
Attorney Docket No.: P-5857-US :
For: IMAGING SENSOR ARRAY AND :
DEVICE AND METHOD FOR USE :
THEREOF :

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 04 October 2006.

BACKGROUND

On 04 April 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 04 October 2006, applicants filed a response which was accompanied by, *inter alia*, the subject petition, a declaration signed by two of the three named inventors; an statement by Rachel Bentov; a four-month extension; the petition fee of $200.00; the $130.00 surcharge fee and exhibits A - B.

DISCUSSION

Applicants claim that co-inventor Israel Mendel refuses to cooperate in the above-identified application and have filed the subject petition in response to the Form PCT/DO/EO/905 mailed 04 April 2006.

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

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

Regarding item (2), applicants' burden in showing that an inventor refuses to cooperate is explained in section 409.03(d) of the MPEP. Several pertinent segments are listed below:

> 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 it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted.

In this case, petitioners have submitted a declaration by Rachel Bentov who claims that she submitted a complete copy of the application and a declaration were mailed to the nonsigning inventor on 12 September 2006. Ms. Bentov states that the nonsigning inventor contacted her on 14 September 2006 and initially agreed to sign the documents. After further discussions, Ms. Bentov declares that Mr. Mendel told her via telephone on 03 October 2006 that he was not going to sign the documents. , Petitioners have submitted a copy of an email verifying that a complete copy of the subject application was forwarded to Mr. Mendel.

This evidence is sufficient to show a refusal by the inventor to cooperate and meets the requirements of the MPEP. Item (2) of 37 CFR 1.47(a) is satisfied.

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

29a Albert Shvaytzer St.

Haifa, 34995 Israel

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 meets the requirements of section 409.03(a) and is in compliance with 37 CFR 1.497(a) and (b).

All requirements of 37 CFR 1.47(a) are complete.

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 04 September 2003 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 04 October 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

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JUN 10 2010

OFFICE OF PETITIONS

Docket Clerk/HTCL
P.O. Drawer 800889
Dallas, TX 75380

In re Application of Zhang et al. :
Application No. 10/562,867 : Decision on Petition
Filing Date: October 3, 2006 :
Attorney Docket No. HUAW01-10762 :

This is a decision on the petition under 37 CFR 1.181 filed January 27, 2010, requesting the Office withdraw the holding of abandonment.

The petition is **granted.**

A proper Power of Attorney and Change of Address form was filed August 12, 2009. The form changed the address of record from "Address A" to the address associated with Customer No. 90073.

The Office mailed a Notice of Allowance on August 14, 2009, to Address A.

The Power of Attorney and Change of Address was entered by the Office on August 24, 2009.

The Office did not receive a reply to the Notice of Allowance. As a result, a Notice of Abandonment was mailed to the correct address on November 30, 2009.

The petition asserts the Notice of Allowance was never received at the address associated with Customer No. 90073.

The petition includes payment of the issue fee and publication and includes a completed PTOL-85(b) form.

In view of the prior facts, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The Office of Data Management, Patent Publications Branch, will be informed of the instant decision and the application will be issued 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

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31 JAN 2006

Nils E. Pedersen
Wenderoth, Lind & Ponack, L.L.P.
2033 K Street, N.W., Suite 800
Washington, D.C. 20006-1021

In re Application of	:	
NABEYA, et al.	:	
U.S. Application No.: 10/562,877	:	
PCT No.: PCT/JP04/10364	:	DECISION ON PETITION
Int. Filing Date: 14 July 2004	:	
Priority Date: 16 July 2003	:	UNDER 37 CFR 1.182
Attorney's Docket No.: 2005-2017A	:	
For: POLISHING APPARATUS	:	

This decision is in response to applicant's "Petition Under 37 CFR 1.182 to Correct an International Application Number" filed 19 January 2005 in the United States Patent and Trademark Office (USPTO) to correct the error in the Transmittal Letter (Form PTO-1390) filed 29 December 2005.

BACKGROUND

On 14 July 2004, applicant filed international application PCT/JP04/10364, which claimed priority of an earlier Japanese application filed 16 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 27 January 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 16 January 2006.

On 29 December 2005, applicant filed a transmittal letter for entering the U.S. national stage under 35 U.S.C. 371 accompanied by: payment of the U.S. Basic National Fee; an English translation of the International Application; an executed combined declaration and power of attorney; an Information Disclosure Statement and an assignment document. The transmittal letter identified the international application number as PCT/JP2004/013064.

On 19 January 2006, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The identifying information provided on the transmittal letter filed by applicant on 29 December 2005, i.e., the title, applicant-inventor information, priority date, and international filing date all correspond to that of PCT/JP04/10364. In addition, the filed declaration identifies the international application as PCT/JP04/10364. For these reasons, as well as the explanation provided in the present petition, it has been concluded that the national stage papers filed 29

December 2005 sufficiently identified international application PCT/JP04/10364. Pursuant to petitioner's request, the national stage papers assigned U.S. application number 10/562,877 will be treated as a U.S. national stage submission for PCT/JP04/10364.

CONCLUSION

For the reasons above, applicant's "Petition Under 37 CFR 1.182" is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of U.S. application number 10/562,877 as the U.S. national stage application of PCT/JP04/10364; specifically, the preparation and mailing of a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating that the present application is the U.S. National stage entry for international application PCT/JP04/10364.

Derek A. Putonen
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Tel: (571) 272-3294
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07 FEB 2006

CARRIER, BLACKMAN & ASSOCIATES, PC
24101 Novi Road, Suite 100
Novi, Michigan 48375

In re Application of:	:	
KODAMA, Hidekazu, et al.	:	DECISION ON PETITION FOR
U.S. Application No.: 10/562,924	:	REVIVAL OF ABANDONED
PCT No.: PCT/JP2004/007639	:	APPLICATION UNDER
International Filing Date: 27 May 2004	:	37 CFR 1.137(b)
Priority Date: 29 May 2003	:	
Attorney's Docket No.: KNJ-217-A	:	
For: SOUND INSULATION/ABSORPTION	:	
STRUCTURE, AND STRUCTURE	:	
HAVING THESE APPLIED THERETO	:	

The petition for revival under 37 CFR 1.137(b) filed 27 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' 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 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. 50-0744 will be charged the $130 surcharge and the $130 processing fee for filing these materials 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 27 December 2005.

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

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ROBERT E. BUSHNELL
1522 K STREET NW
SUITE 300
WASHINGTON DC 20005-1202

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of :
Young-Taek Sul :
Application No. 10/562925 :
Filing or 371(c) Date: 12/30/2005 : ON PETITION
Attorney Docket Number: P57712 :

This is a decision on the "Petition Under 37 CFR 1.181," filed August 7, 2008, requesting this Office acknowledge the filing and receipt of the foreign priority documents. Applicant states that the Examiner failed to indicate acknowledgment of a claim to priority in the Notice of Allowance.

This Petition is **granted to the extent indicated herein**.

Applicant files the present petition and states that on December 30, 2005, Applicant filed a PCT application for the U.S. National Phase examination claiming all benefits of priority to PCT application PCT/KR2004/000460, filed March 4, 2004. Upon the filing fo this PCT application for the U.S. National Phase examination, Applicant received a postcard receipt confirming receipt of copies of the International Publication and International Search Report. Applicant states that the Examiner failed to indicate acknowledgment of a claim of priority for PCT/KR2004/000460, filed March 4, 2004.

The following is copied from this Office's Web site posting of the American Inventor's Protection Act ("AIPA"), Q & A section:

> **CX1. When the National Stage of an International Application is entered as to the United States, should the first line of the specification be amended to recite the relationship of the National Stage to the International Application and/or should the language of publication of the International Application by the International Bureau be set forth? (Renumbered from C8)**
>
> Neither the relationship of a National Stage application to the International Application, nor the language of publication by the International Bureau should be set forth in the first line of the specification of the National Stage application. An International Application is not a prior application as to the National Stage (they are legally the same application), therefore amended 37 CFR 1.78(a)(2) does not apply.

Office records

A review of Office records reveal that the present application is the National Stage entry of PCT application PCT/KR2004/000460, filed March 4, 2004.

Analysis and conclusion

Because the present application is the National Stage entry of PCT application PCT/KR2004/000460, filed March 4, 2004, PCT application PCT/KR2004/000460 is not a prior application (they are legally the same application). Therefore, 37 CFR 1.78(a)(2), (claiming the benefit of one or more prior-filed copending nonprovisional applications or international applications designating the United States of America), does not apply.

The certified copy of PCT application PCT/KR2004/000460 has been received by this Office, and a claim for priority of the present application to PCT application PCT/KR2004/000460 does not apply since they are legally the same applications.

Telephone inquiries concerning this Decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

17 DEC 2007

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Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20037

In re Application of	:	
SUZUKI, et al.	:	
U.S. Application No.: 10/562,947	:	DECISION ON PETITION
PCT No.: PCT/JP04/08989	:	
Int. Filing Date: 25 June 2004	:	UNDER 37 CFR 1.181
Priority Date: 01 July 2003	:	
Attorney Docket No.: Q92273	:	
For: RUBBER COMPOSITION AND TIRE USING THE SAME	:	

This decision is in response to applicant's "Petition For New Notice of Missing Requirements and Withdrawal of Holding of Abandonment" filed 07 December 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 25 June 2004, applicant filed international application PCT/JP04/08989 which claimed priority to a previous application filed 01 July 2003. A copy of the international application was transmitted to the United States 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, 01 January 2006.

On 30 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); an English translation of the international application and an Information Disclosure Statement.

On 05 April 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 03 December 2007, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) informing application that the present application was abandoned as to the National stage in the United States for failure to respond to the Form PCT/DO/EO/905 mailed on 05 April 2006.

On 07 December 2007, applicant filed the present petition under 37 CFR 1.181 to withdraw the holding of abandonment.

DISCUSSION

As detailed in Official Gazette notice 1156 OG 53 and the Manual of Patent Examining Procedure 711.03(c), a petition under 37 CFR 1.181 requesting relief based upon non-receipt of an office action must be accompanied by:

> A statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Applicant has satisfied all four items listed above and it is therefore proper to grant applicant's petition at this time.

CONCLUSION

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

The "NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909)" mailed on 03 December 2007 is hereby **VACATED**.

This application is being returned to the DO/EO/US for processing in accordance with this decision; namely the issuance of a new "Notification of Missing Requirements" (Form PCT/DO/EO/905).

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06-16-09

TO SPE OF : ART UNIT 3679

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/562962 Patent No.: 7396285

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: Changes are approved.

/Daniel P. Stodola/ — **SPE**

3679 — **Art Unit**

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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Wolfgang Lobel	: DECISION ON REQUEST FOR
Patent Number	: 7608236	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/562,984	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/02/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **182** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

13 NOV 2007

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213448
INTELLECTUAL PROPERTY TECHNOLOGY LAW FIRM
P.O. Box 14329
Research Triangle Park, NC 27709

In re Application of :
ROMAN *et al* :
U.S. Application No.: 10/563,025 :
PCT No.: PCT/EP2004/007195 :
Int. Filing Date: 30 June 2004 : **DECISION**
Priority Date: 30 June 2003 :
Attorney Docket No.: 4258-119 :
For: IN VITRO METHODS FOR :
DETECTING RENAL CANCER :

This is a decision on the papers filed 03 August 2007 which are treated under 37 CFR 1.497(d).

BACKGROUND

On 02 August 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee were required. Applicants were given two months to respond with extensions of time available.

On 14 September 2006, applicants filed a declaration executed by ten joint inventors along with the $65.00 surcharge fee.

On 03 July 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) noting that the declaration filed 14 September 2007 was not in compliance with 37 CFR 1.497(a) and (b) because the international publication for PCT/EP2004/007195 lists eleven inventors for the subject application.

On 03 August 2007, applicants filed a response to the Form PCT/DO/EO/916 which was accompanied by, *inter alia*, a letter from a Spanish law firm dated 10 March 2006.

On 11 October 2007, a filing receipt listing ten inventors for the subject application was mailed by the Office.

On 12 October 2007, 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) indicating

that the application completed all 35 U.S.C. 371 requirements on 03 August 2007.

DISCUSSION

Applicants claim that Maria Eladia Arguelles Sanchez should be removed as an inventor in the above-captioned application. 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). The response filed 03 August 2007 is treated as a petition under 37 CFR 1.497(d).

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 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(l); and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

The processing fee of $130.00 has been charged to Deposit Account No. 08-3284 as authorized. Item (2) is complete.

Regarding item (1), applicants claim that Ms. Sanchez was named as an inventor by mistake and that diligent efforts have been initiated and are continuing to obtain a statement. Instead, applicants submitted a copy of a letter from a Spanish law firm indicating that the inclusion of Ms. Sanchez as an inventor in the international application was a mistake.

This response is inappropriate.

Section 201.03 of the MPEP discusses situations where the statement from the inventor to be removed cannot be obtained and is applicable to petitions under 37 CFR 1.497(d). It states in the relevant section:

> In those situations where an inventor to be added refuses to submit a statement supporting the addition or such party cannot be reached, waiver under 37 CFR 1.183 of the requirement for a statement from that party

would be appropriate upon a showing of such refusal or inability to reach the inventor. Every existing assignee of the original named inventors must give its consent to the requested correction. Where there is more than one assignee giving its consent, the extent of that interest (percentage) should be shown. Where no assignment has been executed by the inventors, or if deletion of a refusing inventor is requested, waiver will not be granted absent unequivocal support for the correction sought. Petitions under 37 CFR 1.47 are not applicable to the requirement for statements from each originally named inventor.

An available remedy to obtain correction of inventorship where waiver of a required statement is not available to correct the inventorship in a particular application is to refile the application naming the correct inventive entity. A request under 37 CFR 1.48(a) would not then be required in the newly filed application as no correction would be needed. Furthermore, a request under 37 CFR 1.48(a) would also not be required in the prior application that was refiled, since the prior application will be abandoned. Benefit of the parent application's filing date would be available under 35 U.S.C. 120 provided there is at least one inventor overlap between the two applications.

To satisfy this item, applicants must either locate and obtain the consent of Ms. Sanchez, file a petition under 37 CFR 1.183 to waive the requirement, or refile the application as a continuation of PCT/EP2004/007195 naming the correct inventive entity. The letter by the Spanish law firm does not meet this requirement. Item (1) of 37 CFR 1.497(d) is not satisfied.

Concerning item (3), applicants have not provided written consent of the assignee, or made a claim that no written assignment exists. Applicants must address this requirement. For this reason, item (3) of 37 CFR 1.497(d) is also not satisfied.

CONCLUSION

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

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

The filing receipt mailed 11 October 2007 and the Form PCT/DO/EO/903 mailed 12 October 2007 were sent in error, and are hereby **VACATED**.

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

22 FEB 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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213448
INTELLECTUAL PROPERTY TECHNOLOGY LAW FIRM
P.O. Box 14329
Research Triangle Park, NC 27709

In re Application of :
ROMAN *et al* :
U.S. Application No.: 10/563,025 :
PCT No.: PCT/EP2004/007195 :
Int. Filing Date: 30 June 2004 : **DECISION**
Priority Date: 30 June 2003 :
Attorney Docket No.: 4258-119 :
For: IN VITRO METHODS FOR :
DETECTING RENAL CANCER :

This is a decision on the papers filed 11 February 2008.

BACKGROUND

On 13 November 2007, a decision dismissing applicants' petition under 37 CFR 1.497(d) was mailed. The filing receipt mailed 11 October 2007 and the Form PCT/DO/EO/903 mailed 12 October 2007 were vacated in the decision. Applicants were given two months to respond with extensions of time available.

On 11 February 2008, applicants filed a renewed petition under 37 CFR 1.497(d) which was accompanied by, *inter alia*, a one-month extension and fee, a petition under 37 CFR 1.183, and authorization to charge any required fee to Deposit Account No. 08-3284.

DISCUSSION

The international publication (WO/2005/003776 published 13 January 2005) lists Maria Eladia Arguelles Sanchez as an Applicant/Inventor of PCT/EP2004/007195 which is the underlying international application of the subject application. Applicants claim that Ms. Arguelles Sanchez is not an inventor and should be removed.

To remove an inventor in these cases, applicants must meet the requirement of 37 CFR 1.497(d), which states:

> (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(l); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

The prior decision mailed 13 November 2007 noted that applicants failed to complete items (1) and (3) of 37 CFR 1.497(d). To satisfy item (1) of 37 CR 1.497(d), applicants must either locate and obtain the consent of Ms. Sanchez, file a petition under 37 CFR 1.183 to waive this requirement, or refile the application as a continuation of PCT/EP2004/007195 naming the correct inventive entity. Applicants must also provide written consent of the assignee to meet the requirements of item (3).

In the renewed petition, a written consent of the assignee signed by Laureano Simón, the CEO of the assignee was provided. The position of CEO in an organization is presumed to have the authority to sign for the organization. *See* § 324 MPEP. Applicants also provided the reel and frame number of the assignment which was verified as correct. This is sufficient to satisfy item (3) of 37 CFR 1.497(d).

With regard to item (1) of 37 CFR 1.497(d), applicants filed a petition under 37 CFR 1.183 to waive the requirement for a statement from Ms. Arguelles Sanchez. Under 37 CFR 1.183, any requirement of the regulations, which is not a requirement of the statutes, may be waived by the Commissioner's designee in an extraordinary situation, when justice so requires. A petition under 37CFR 1.183 also requires a $400.00 petition fee. This fee has been charged to Deposit Account No. 08-3284 as authorized

Applicants request a suspension of the rules because Ms. Arguelles Sanchez is unavailable and cannot be located. Petitioners claim that "by the evidence of the record, diligent efforts have been made to locate Maria Eladia Arguelles Sanchez and prospects have been exhausted for locating her." However, there is **no evidence that a diligent effort has been been to locate Ms. Arguelles Sanchez in the record.**

In documents filed 03 August 2007, applicants assert that "diligent efforts have been initiated and are continuing to secure a statement from Maria Eladia Arguelles Sanchez." But applicants provided no corroborating evidence of these 'diligent efforts' and any results of this search. The letter submitted on 03 August 2007 from the Spanish law firm also did not discuss any effort made to contact Ms. Arguelles Sanchez.

Petitioners must provide satisfactory evidence that Ms. Arguelles Sanchez cannot be located after a diligent search before the petition to waive the statement requirement of 37 CFR 1.497(d) will be considered.

Applicants should provide a statement of facts outlining the steps taken to locate Ms. Arguelles Sanchez by a person with first-hand knowledge of these facts. Applicants should include copies of all relevant documentary evidence in support of this claim which would include internet/telephone searches, copies of cover letters, postal receipts, e-mails, and contact with former employers, etc. showing that a diligent effort was made to contact Ms. Arguelles Sanchez no avail.

In addition, it is noted that the requirement of item (1) of 37 CFR 1.497(d) is not one that ordinarily is waived because **relief is available by other means**. Specifically, applicants can file a continuation application under 37 CFR 1.53 without naming Ms. Arguelles Sanchez as a co-inventor.

Section 201.03 of the MPEP, in part:

> Correction of inventorship may also be obtained by the filing of a continuing application under 37 CFR 1.53 without the need for filing a request under 37 CFR 1.48[1], either in the application containing the inventorship error (to be abandoned) or in the continuing application. The continuing application must be filed with the correct inventorship named therein. The filing of a continuing application to correct the inventorship is appropriate if at least one of the correct inventors has been named in the prior application (35 U.S.C. 120 and 37 CFR 1.78(a)(1)). That is, at least one of the correct inventors must be named in the executed oath or declaration filed in the prior application, or where no executed oath or declaration has been submitted in the prior application but the names of the inventors were set forth in the application papers pursuant to 37 CFR 1.41(a)(1). Where the names of the inventors are to be added, correction of inventorship can be accomplished by filing a continuing application under 37 CFR 1.53(b) with a newly executed oath or declaration under 37 CFR 1.63(a). Where the name of an inventor(s) is to be deleted, applicant can file a continuing application with a request for deletion of the name of the inventor(s). The continuing application may be filed under 37 CFR 1.53(b) or 37 CFR 1.53(d). Note the requirements of 37 CFR 1.78 (a)(1)(ii)-(iv).

See also MPEP § 201.03, *E. Continuing Applications.*

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[1] This is also applicable to 37 CFR 1.497(d).

In any renewed petition to waive the rules under 37 CFR 1.183, applicants must also explain why this alternative remedy is not appropriate. Additional cost of filing a continuation is not an acceptable response to this question.

CONCLUSION

For the reasons discussed above, applicants' petitions under 37 CFR 1.497(d) and 1.183 are both **DISMISSED** without prejudice.

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

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

James Thomson
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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Owen Derek Barr	:	DECISION ON PETITION
Application No. 10/563,026	:	TO WITHDRAW
Filed: December 30, 2005	:	FROM RECORD
Title: Multi-Layer Covering	:	

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 5, 2009.

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

A review of the file record indicates that on June 22, 2009 the power of attorney to Bozicevic Field & Francis LLP was revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Currently, there is no outstanding Office action that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Boyle Fredrickson S.C.
840 North Plankinton Avenue
Milwaukee WI 53203

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OFFICE OF PETITIONS

INTELLECTUAL PROPERTY / TECHNOLOGY LAW
PO BOX 14329
RESEARCH TRIANGLE PARK NC 27709

In re Application of	:	
Fabre, et al.	:	
Application No. 10/563,033	:	DECISION REFUSING STATUS
Filed: December 30, 2005	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 4258-118	:	
	:	

This is in response to the petition under 37 CFR 1.47, filed September 7, 2006, which is being treated as a petition under 37 CFR 1.47(a).[1]

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

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(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).

[1] A petition under 37 CFR 1.47(a) is appropriate when some of the inventors have refused to sign. A petition under 37 CFR 1.47(b) is appropriate when all of the inventors have refused to sign.

Accompanying the petition is a declaration executed by inventors Fabre, Menoyo, and Esquius, but with the signature block for inventor Matas left blank. Signing for inventor Matas is Luiz Ruiz.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Rule 47 applicant has not met requirement (2) above.

As to requirement (3), Rule 47 applicant has not submitted the $200 petition fee.

As to requirement (2), the signature block for inventor Matas should be left blank. As this is not a 37 CFR 1.47(b) petition, it is not acceptable that Ruiz sign for Matas. Rather, the signing inventors sign on behalf of the non-signing inventor. A declaration with a blank signature block for the nonsigning inventor will be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor.[2]

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

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

By FAX: (571)273-8300
Attn: Office of Petitions

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

Cliff Congo
Petitions Attorney
Office of Petitions

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[2] See MPEP 409.03(a).

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OFFICE OF PETITIONS

In re Application of
Fabre, et al.
Application No. 10/563,033
Filed: December 30, 2005
Attorney Docket No. 4258-118

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed January 2, 2007.

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

Applicants filed a petition under 37 CFR 1.47(a) on September 7, 2006. However, the petition was dismissed in a decision mailed on November 2, 2006. The declaration submitted with the petition was not proper.

With the instant renewed petition, applicants have overcome the objections set forth in the November 2, 2006 decision.

Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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SRA MARIANA LOPEZ MATAS
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08024 BARCELONA
SPAIN

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OFFICE OF PETITIONS

In re Application of :
Myriam Fabre, Sonia Gonzalez Menoyo, :
Mariana Lopez Matas, Roser Pasan I :
Esquis :
Application No. 10/563,033 : LETTER
Filed: December 30, 2005
Title: Method of Storing And/Or
Transporting In Vitro Cell Cultures

Dear Ms. Matas:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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07 FEB 2006

Mark J. NAHNSEN
PO Box 2786
Chicago, Illinois 60690-2786

In re Application of:	:	
THELAN, Richard, L.	:	DECISION ON PETITION FOR
U.S. Application No.: 10/563,044	:	REVIVAL OF ABANDONED
PCT No.: PCT/US2004/00284	:	APPLICATION UNDER
International Filing Date: 06 January 2004	:	37 CFR 1.137(b)
Priority Date: 06 January 2003	:	
Attorney's Docket No.: 34692-99277	:	
For: AIRCRAFT SPRAY BOOTH	:	

The petition for revival under 37 CFR 1.137(b) filed 30 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement 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 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
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

09 AUG 2006

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COMMISSIONER FOR PATENTS
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Jason Wejnert
BRINKS, HOFER, GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILL 60610

In re Application of: KUZ, et al	:	
Application No.: 10/563,069	:	
PCT Application No.: PCT/EP04/07127	:	DECISION ON
Int. Filing Date: 30 June 2004	:	PETITION UNDER
Priority Date Claimed: 30 June 2003	:	37 CFR 1.137(b)
Attorney Docket No.: 11336.1240 (P03064US)	:	
For: Method, Device and System for	:	
Transmitting an Emergency Call	:	
	:	

This decision is a response to Applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)", which was filed on 22 May 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 30 June 2004, Applicant filed international application PCT/EP04/07127. The international application claims a priority date of 30 June 2003 and designates the United States. Pursuant to 35 U.S.C. 371 and 37 CFR 1.495, the thirty-month period for commencement of the national stage in the United States, and paying the required basic national fee, expired at midnight on 30 December 2005.

On 29 December 2005, Applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, a copy of the International Application. However, no requisite basic national fee as required by 35 U.S.C. 371 (c)(1) was provided at such time.

On 27 July 2005, Applicant was mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) informing Applicant that it had failed to provide the full U.S. Basic National Fee by 30 months pursuant to 37 CFR 1.495(b)(2).

On 11 July 2006, Applicant filed the instant petition to revive accompanied by, *inter alia*, the $1,500 petition fee, and the required $300 basic national fee. Also submitted were examination, search and additional-claims fees.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (2) the petition as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

With regard to Item (1), the required reply, i.e. the $300 basic national fee has been received.

With regard to Item (2), the appropriate petition fee of $1,500 as required by 37 CFR 1.17(m) has been paid.

With regard to Item (3), Applicant's statement that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" has been satisfied.

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

CONCLUSION

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

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

Dionne W. Mayes
PCT Legal Administration Detailee
Telephone: 571-272-6094
Facsimile: 571-273-0459

Leonard Smith
Supervisory Legal Examiner
Office of PCT Legal Administration

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

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OFFICE OF PETITIONS

In re Application of	:	
Volker KUZ, et al	:	
Application No. 10/563,069	:	DECISION ON PETITION
Filed: January 29, 2007	:	TO WITHDRAW
Attorney Docket No. 11336/1240 (P02108US)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 request cannot be approved because the attorneys of record were not appointed by Customer Number 81166, as indicated.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL
INDUSTRIES, INC.
8500 BALBOA BOULEVARD
NORTHDRIDGE, CA 91329

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OFFICE OF PETITIONS

HARMAN - BRINKS HOFER CHICAGO
BRINKS, HOFER, GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

In re Application of :
Markus Christoph :
Application No. 10/563,072 : DECISION ON PETITION
Filed: August 23, 2006 : TO WITHDRAW
Attorney Docket No. 11336-1238 (P03036US) : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others

The request cannot be approved because the practitioner(s) requesting the withdrawal have not certified that they have (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment; (2) deliver to the client or duly authorized representative of the client papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond. The failure to do so may subject the practitioner to discipline. It is also noted that false certification may violate a practitioners' duty under 37 CFR 10.23(b)(4) and (b)(5).

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

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

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

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

Attachment: Blank copy of PTOL/SB/83 Form

cc: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL INDUSTRIES, INCORPORATED
8500 BALBOA BOULEVARD
NORTHRIDGE, CA 91329

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GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

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DEC 2 2 2009

OFFICE OF PETITIONS

In re Application of :
Jianming Chen et al. :
Application No. 10/563,078 : DECISION ON PETITION
Filed: June 8, 2006 : TO WITHDRAW
Attorney Docket No. 601/5 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 2, 2009.

The request is **NOT APPROVED.**

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

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed for items 1-3 listed above.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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wk

Mailed: 9-24-07

In re application of	:	
Sumiya et al.	:	DECISION ON
Serial No. 10/563,087	:	PETITION
Filed: December 30, 2005	:	
For: Crucible And Single Crystal Growth Method Using Crucible	:	

This is a decision on the PETITION UNDER 37 CFR 1.181 For Corrective Action mailed May 16, 2007.

On August 14, 2007, the instant petition under 37 CFR 1.181 was filed.

DECISION

Rule 1.181, Section (f) states:
§ 1.181 Petition to the Commissioner.

(f) 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

Accordingly, the instant petition is **DISMISSED.**

Jacqueline M. Stone/wk

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

Alan E. Schiavelli
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
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ALEXANDRIA VA 22314

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MAR 13 2009

OFFICE OF PETITIONS

In re Application of :
Selwayan Saini, et al. :
Application No. 10/563,094 : DECISION ON PETITION
Filed: December 30, 2005 :
Attorney Docket No. P08828US00/BAS :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 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, June 24, 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 September 25, 2008.

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

The petition is **GRANTED**.

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

This application is being referred to Technology Center AU 1641 for appropriate action by the Examiner in the normal course of business on the reply received February 2, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

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John P. Shannon
MEREK, BLACKMON & VOORHEES, LLC
673 S. WASHINGTON ST
ALEXANDRIA VA 22314

18 JUL 2006

In re Application of:
KATO, Yusaku, et al.
U.S. Application No.: 10/563,114
PCT No.: PCT/JP2004/008598
International Filing Date: 18 June 2004
Priority Date: 02 July 2003
Atty Docket No.: KAS.073
For: RUBBER CRAWLER TRACK AND METHOD OF PRODUCING CORE METAL FOR RUBBER CRAWLER TRACK

DECISION ON REQUEST TO CORRECT INVENTOR'S NAME

This decision is issued in response to the "Petition To The Director Under 37 CFR 1.181" filed 08 June 2006, treated herein as a request to correct a transliteration error in one of the inventor's names. No petition fee is required.

BACKGROUND

On 18 June 2004, applicants filed international application PCT/JP2004/0008598. The international application claimed a priority date of 02 July 2003, and it designated the United States. On 13 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., 03 January 2006 (the USPTO was closed on 02 January 2006 for a federal holiday).

The published international application listed three inventors for the purposes of the United States: Yusaku KATO, Tsuyoshi NAITO, and Tatsuya NORITO.

On 03 January 2006, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, a translation of the international application into English, and an executed declaration. The name of the second inventor on the declaration was listed as Tsuyoshi UCHIYAMA, rather than Tsuyoshi NAITO (as this inventor was identified on the published international application).

On 19 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date. The Notification Of Missing

Requirements noted that the declaration filed 03 January 2006 was defective based on the change in the second inventor's name.

On 08 June 2006, applicants filed the "Petition To The Director Under 37 CFR 1.181" considered herein, accompanied by payment of a $130 petition fee. The petition requests acceptance of the declaration filed 03 January 2006, asserting that the discrepancy between the second inventor's name in the declaration and the international application was the result of a transliteration error.

DISCUSSION

Section 605.04(b) of the Manual of Patent Examining Procedure states that, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition is not required, nor is a new oath or declaration needed. Here, applicants' 08 June 2006 submission confirms that the correct name of the second inventor is Tsuyoshi UCHIYAMA, as listed on the declaration filed 03 January 2006, and it includes a statement from the person who prepared the international application confirming that the listing of this inventor's name as Tsuyoshi NAITO in the international application was the result of a transliteration error.

Based on the 08 June 2006 submission, the correct name for the second inventor is accepted as Tsuyoshi UCHIYAMA, as set forth in the declaration filed 03 January 2006. In light of this correction, the declaration filed 03 January 2006 is now acceptable under 37 CFR 1.497. Because the declaration was filed prior to expiration of thirty months from the priority date, no surcharge payment is required.

CONCLUSION

Applicants' 08 June 2006 request to correct the inventor's name is **GRANTED**. The name of record for the second inventor is accepted as **Tsuyoshi UCHIYAMA**, as set forth in the declaration filed 03 January 2006. Based on the correction of the inventor's name, the declaration filed on 03 January 2006 is acceptable under 37 CFR 1.497.

The petition fee filed with the 08 June 2006 submission is unnecessary and will therefore be refunded to Deposit Account No. 50-0562.

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 03 January 2006.

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

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NEW YORK, NY 10036-8403

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OFFICE OF PETITIONS

In re Application of :
Fulvio BOLDRINI, et al :
Application No. 10/563,139 : ON PETITION
Filed: July 12, 2006 :
Attorney Docket No. P/2528-35 :

This is a decision on the petition, filed June 24, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is Azionaria Costruzioni Macchine Automatiche A.C.M.A. S.p.A., and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee.

The request was not accompanied by a statement that the failure to include the correct assignee's name on the PTOL-85B was inadvertent. Accordingly, the request to correct the assignee's name cannot be granted at this time.

Inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Thurman K. Page
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Bjorn Refsum	:	
Application No. 10/563,143	:	DECISION ON PETITION
Filed: December 30, 2005	:	
Attorney Docket No. OPA 324	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 7, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 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 March 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 $1,620.00, and (3) an adequate 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 3636 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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Alexandria, VA 22313-1450
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17 JAN 2006

Robert Ryan Morishita
3800 Howard Hughes Parkway
Suite 850
Las Vegas, Nevada 89109

In re Application of
SCANLAN, Philip
Application No.: 10/563,162
PCT No.: PCT/AU02/00184
Int. Filing Date: 21 February 2002
Priority Date: 22 February 2001
Attorney Docket No.: WORLDLINGO05-01
For: TRANSLATION INFORMATION SEGMENT

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 24 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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30 JAN 2006

Wiggin and Dana LLP
Attention: Patent Docketing
One Century Tower
P.O. Box 1832
New Haven, CT 06508-1832

In re Application of :
JUSKEY et al. :
Application No.: 10/563,172 : DECISION ON PETITION
PCT No.: PCT/US04/04676 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 17 February 2004 :
Priority Date: 21 February 2003 :
Attorney Docket No.: 102402-200 :
For: LEAD FRAME WITH INCLUDED PASSIVE DEVICES

The petition to revive under 37 CFR 1.137(b) filed 30 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 $130 surcharge for filing the oath or declaration after the twenty-month period is required.

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

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10 APR 2007

Wiggin and Dana LLP
Attention: Patent Docketing
One Century Tower, P.O. Box 1832
New Haven, CT 06508-1832

In re Application of
JUSKEY et al.
U.S. Application No. 10/563,172
PCT No.: PCT/US04/04676
It. Filing Date: 17 February 2004
Priority Date: 21 February 2003
Attorney Docket No.: 102402-200
For: LEAD FRAME WITH INCLUDED PASSIVE DEVICES

DECISION ON PETITION

This decision is issued in response to applicants' "Petition for Filing by Other Than All the Inventors under 37 CFR 1.47(a)" filed 12 March 2007 to accept the application without the signature of joint-inventor, Lawrence R. Thompson.

BACKGROUND

On 17 February 2004, applicants filed international application PCT/US04/04676, which claimed priority of an earlier application filed 21 February 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 21 August 2005.

On 30 December 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; a preliminary amendment; and a petition under 37 CFR 1.137(b).[1]

On 10 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 12 March 2007, applicants filed the present petition under 37 CFR 1.47(a).

[1]Applicants' petition to revive under 37 CFR 1.137(b) was granted in a Decision on Petition dated 30 January 2007.

DISCUSSION

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

Regarding item (2) above, petitioner states that Lawrence R. Thompson has refused to sign the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

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

A review of the present petition reveals that petitioner has not satisfied item (2) above, in that, the petitioner has not shown that a bona fide attempt was made to present the application papers, including the specification, claims, drawings, and oath/declaration to Lawrence R. Thompson. The affidavit of Marty Kennedy states that she mailed, via Federal Express, a declaration and power of attorney on May 20, 2006. However,

petitioner fails to include evidence to demonstrate that the materials were received by the nonsigning inventor. Where the Office is being asked to accept the silence of the nonsigning inventor's as evidence of a refusal to sign, petitioner must provide some evidence that the application materials have been received by the nonsigning applicant. Further, it is unclear from the present petition whether Lawrence R. Thompson has been presented with a complete copy of the application papers as required. The mailing of an oath and declaration is not considered a complete copy of the application papers.

As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers (specification, claims, drawings and oath/declaration) were sent to Lawrence R. Thompson, and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

Regarding item (4), section 409.03(a) of the Manual of Patent Examining Procedure ("MPEP") states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, petitioner has filed a declaration executed by Frank J. Juskey that included an unsigned signature box identifying the nonsigning inventor. However, petitioner has not provided a declaration executed by the second inventor, David K. Lau. Therefore, item (4) has not been satisfied.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Lawrence R. Thompson under 37 CFR 1.47(a) at this time.

CONCLUSION

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

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

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

1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
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Fax: (571) 273-0459

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10 AUG 2007

Wiggin and Dana LLP
Attention: Patent Docketing
One Century Tower, P.O. Box 1832
New Haven, CT 06508-1832

In re Application of :
JUSKEY et al. :
U.S. Application No. 10/563,172 :
PCT No.: PCT/US04/04676 :
It. Filing Date: 17 February 2004 : DECISION ON PETITION
Priority Date: 21 February 2003 :
Attorney Docket No.: 102402-200 :
For: LEAD FRAME WITH INCLUDED :
PASSIVE DEVICES

This decision is issued in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 02 August 2007 to accept the application without the signature of joint-inventor, Lawrence R. Thompson.

BACKGROUND

On 17 February 2004, applicants filed international application PCT/US04/04676, which claimed priority of an earlier application filed 21 February 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 21 August 2005.

On 30 December 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; a preliminary amendment; and a petition under 37 CFR 1.137(b).[1]

On 10 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 12 March 2007, applicants filed a petition under 37 CFR 1.47(a). In a decision dated 10 April 2007, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

---

[1]Applicants' petition to revive under 37 CFR 1.137(b) was granted in a Decision on Petition dated 30 January 2006.

On 02 August 2007, applicants filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

Petition under 37 CFR 1.181

Applicants state in their present petition that a renewed petition under 37 CFR 1.47(a) was received at the United States Patent and Trademark Office on 08 June 2007. A review of the present application reveals that a renewed petition under 37 CFR 1.47(a) is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicants, title of invention, and attorney docket number. The receipt itemizes a Renewed Petition under 37 CFR 1.47(a). The receipt is stamped "Rec'd PCT/PTO 08 June 2007" across its face is sufficient to indicate that the above items were in fact received in the Office on 08 June 2007.

Renewed Petition under 37 CFR 1.47(a)

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

Applicants here have submitted the appropriate petition fee. Item (1) is therefore satisfied.

Regarding item (2), the petition asserts that the nonsigning 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 nonsigning 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 Lawrence R. Thompson's refusal to execute the application papers is contained in the "Affidavit of Marty Kennedy" included in the petition, and the exhibits thereto. These materials provide the required firsthand

statement regarding the delivery to the nonsigning inventor of a copy of the complete application, and the nonsigning inventor's refusal to execute the application, with documentary evidence supporting the statement. Item (2) is therefore satisfied.

Regarding item (3), applicants have provided the last known address of the nonsigning inventor. Accordingly, item (3) is therefore satisfied.

Regarding item (4), section 409.03(a) of the Manual of Patent Examining Procedure ("MPEP") states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed declarations executed by two of the three inventors and including an unsigned signature box identifying the nonsigning inventor (Lawrence R. Thompson). This declaration is treated as having been executed by the available inventors on their behalf and on behalf of the nonsigning inventor. Item (4) is therefore satisfied.

For the reasons stated above, it is appropriate to accept the application without the signature of Lawrence R. Thompson under 37 CFR 1.47(a) at this time.

CONCLUSION

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

The application will be given an international filing date of 17 February 2004 under 35 U.S.C. 363, and a date of 08 June 2007 under 35 U.S.C. 371(c).

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

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

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

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: (571) 272-3298
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APR 2 6 2010

Michael N Haynes
1341 Huntersfield Close
Keswick, Virginia 22947

In re Application of: Christopher De Janasz
Appl. No. 10/563,187
Filed: December 30, 2005
For: VEHCILE-BASED WIRELESS IDENTIFICATION SYSTEM

: DECISION ON PETITION
: TO WITHDRAW FINALITY
: AND FOR SUPERVISORY
: REVIEW UNDER 37 CFR 1.181
:

This is a decision on applicant's petition under 37 CFR 1.181 filed on January 8, 2008 to withdraw the finality in the office action October 9, 2008 and on applicant's petition under 37 CFR 1.181 filed March 7, 2008 requesting supervisory review.

The petitions are **DISMISSED.**

On June 29, 2006, the examiner issued a non-final Office action rejecting all of the claims. On October 24, 2006, applicant filed a request for reconsideration and arguments. On October 9, 2007, the examiner mailed a final Office action. In response to the final Office action, applicant filed a petition on January 8, 2008 ("January 2008 petition") requesting that the finality be withdrawn, a declaration under 37 C.F.R. § 1.132, claim amendments, and "Remarks.". While the first petition was outstanding, applicant filed a second petition on March 7, 2008 requesting supervisory review ("March 2008 petition"). In the March 2008 petition, applicant requested, inter alia, reconsideration of the January 2008 petition, issuance of an advisory action, and a request for continued examination (RCE) under 37 C.F.R. § 1.114 if the January 2008 petition is not timely granted. Then on June 6, 2008, applicant filed a Request for Continued Examination (RCE).

The record shows that the June 6, 2008 RCE was processed to withdraw the finality of the Office action of October 9, 200, and the after final amendment filed on January 8, 2008 was entered in accordance to Rule 37 CFR 1.114 and MPEP 706.07 (h) which states that "the Office will withdraw the finality of any Office action and the submission will be entered and considered." Therefore, the January 2008 petition filed under 37 CFR 1.181 to withdraw the finality of the office action of October 9, 2007 and the March 2008 petition for supervisory review are moot in view of the submission of the RCE.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Andrew Fischer at (571) 272-6779.

Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

LM
ajf/lm: 4/19/2010

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,194	05/30/2006	Jens Stougaard Jensen	83196-375528	5997

25764 7590 10/08/2009

FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

EXAMINER
BUI, PHUONG T

ART UNIT	PAPER NUMBER
1638	

NOTIFICATION DATE	DELIVERY MODE
10/08/2009	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):

e-OfficeActionHNI@faegre.com
dweiss@faegre.com

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2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-3901

In re Application of	:
Jensen et al.	:
Serial No.: 10/563,194	:Decision on Petition
Filed: 30 May 2006	:
Attorney Docket No.: 83196-375528	:

This letter is in response to the petition filed under 37 C.F.R. § 1.144 filed on May 21, 2009 requesting reconsideration of the lack of unity requirement. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed as a national stage application under 35 USC 371 and as such, is eligible for unity of invention practice.

On 27 June 2008, the examiner divided claim 1-29 into 5 Groups as follows:

Group I, claim(s) 1-8, drawn to an NFR polypeptide.

Group II, claim(s) 9-15, drawn to a nucleic acid molecule.

Group III, claim(s) 16-24, drawn to a plant expressing a Nod-factor binding element.

Group IV, claim(s) 25, 26, 28 and 29, drawn to a method for marker assisted breeding.

Group V, claim(s) 27, drawn to a plant carrying a NFR allele.

The examiner then required an election of species amongst the different sequences. The examiner stated "Nod factors are known in the art, citing page 5 of the specification" however, no particular prior art was cited to establish that the same or corresponding technical features did not make a contribution over the prior art.

On 27 August 2008, applicants elected, with traverse, Group I and SEQ ID No 8 directed to NFR5, with traverse.

On 21 November 2008, in a non-final Office action the examiner incorrectly indicated that applicants elected Invention III. The examiner addressed the traversal and made the requirements final. Claims 2 and 6-29 were withdrawn as being directed to non-elected invention. Claims 1 and 3-5 were rejected under 35 USC 112, 2nd. Claims 1 and 4 were rejected under 35 USC 112, 1st, for scope of enablement and for lack of adequate written description. Claims 1 and 4 were rejected under 35 USC 102(b) and (e). Claims 3 and 5 were indicated as free of the prior art.

On 21 May 2009, applicant submitted a response to the Office action and the petition currently under review.

On 20 August 2009, the examiner mailed out a notice of non-responsive amendment concerning the lack of underlines in added material. On that same day, applicants filed a response with amended claims.

DISCUSSION

The petition and file history have been carefully considered. Although unity of invention is general considered with regard to the claims as currently pending, in addition to addressing the merits of the petition, several inconsistencies in prosecution are noted and corrected.

First the original restriction requirement placed claims directed to nucleic acids in both Group I (claims 6-8) and in Group II (claims 9-15). This is incorrect. Because Claim 6 of Group I is directed to the same invention as Claim 9 of Group II, Groups I and II will be rejoined for examination.

Second, applicants elected Group I, however, in the first Office action on the merits, the examiner indicated that applicants elected Invention III. This is not correct. Applicants elected invention (Group I) is under examination.

Third, original claim 27 (now replaced with new claim 56, set forth below) was directed to a plant encoding a Nod-factor binding polypeptide. Page 14 of the specification makes links the technical features of the NFR polypeptide and the Nod factor binding element.

> **NFR polypeptides: are polypeptides that are required for Nod-factor binding and function as the Nod-factor binding element in nodulating plants.** NFR

The specification discloses that the NFR polypeptide (see for example, new claim 49 of Group III) functions as Nod-factor binding element (seem for example, the limitations used in new Claim 56 of Group V).

> 49. (Withdrawn, New) A transgenic plant expressing a heterologous Nod-factor binding element according to claim 30.
>
> 56. (Withdrawn, New) A plant selected according to the method of claim 54, carrying a Nod-factor binding protein allele encoding a variant Nod-factor binding polypeptide.

Because Group III and V require the same technical feature of a plant which contains a NFR polypeptide, that may function as a Nod-factor binding element, and because applicants are entitled to present multiple claims to describe their one invention in a variety of ways, using structural and functional limitations, the lack of unity between Group III and V is improper.

Fourth, it is noted that the product inventions are grouped in 4 different groups drawn to NFR protein (group I), DNA which encodes the NFR protein (Group II), plants which comprises the NFR protein encoded by the DNA (Group III) and a plant which carries an allele that encodes the NFR protein (Group V). Additionally, it is noted that nucleic acid of Claim 6 was grouped with the protein in Group I and not with the nucleic acid of Group II. This sort of grouping is inconsistent with the International Search and Preliminary Examination Guidelines provide Example 13 and Example 15 to address unity of invention when multiple products are claimed:

> 10.33 Example 13
>
> Claim 1: Filament A for a lamp.
>
> Claim 2: Lamp B having filament A.
>
> Claim 3: Searchlight provided with lamp B having filament A and a swivel arrangement C.
>
> Unity exists between claims 1, 2, and 3. The special technical feature common to all the claims is the filament A.
>
> 10.35 Example 15
>
> Claim 1: Compound A.
>
> Claim 2: An insecticide composition comprising compound A and a carrier.
>
> Unity exists between claims 1 and 2. The special technical feature common to all the claims is compound A.

In this application, unity of invention exists because the plant of Groups III/V contains the DNA of Group II which in turn expresses the protein of Group I. This is consistent with the unity of invention holding between the composition of ISPE Guidelines Example 15 which contains the compound or the searchlight of ISPE Guidelines Example 13, which contains a lamp, which in turn contains a filament.

Fifth, because no particular prior art was cited in the unity of invention requirement to demonstrate that the product did not make a contribution over the prior art, applicants are entitled to examination of the product, (DNA of rejoined Groups I and II), along with the first method of using the first product (Group IV), which results in the plants (rejoined Groups III and V) which express the protein of Group I.

Sixth, with regard to the requirement to elect a single sequence, claims as currently pending are drafted such that the generic embodiment of "70% identity to SEQ ID No 8 encompass SEQ ID No 15, for example. For this reason, the sequences, *as claimed,* have unity of invention and no elect of species requirement is warranted.

Seventh, the examiner has indicated that Claims 3 and 5 are as free of the prior art in the first Office action on the merits. Claims 3 and 5, set forth below, recite all the particular sequences involved in the election of species requirement.

> 3. (Original) The Nod-factor binding element of claim 1, wherein the NFR polypeptide is NFR5 comprising an amino acid sequence selected from the group consisting of SEQ ID No: 8, 15, 32, 40, and 48.
>
> 5. (Original) The Nod-factor binding element of claim 1, comprising:
>
> a. the NFR polypeptide that is NFR1 or a functional fragment thereof, having the amino acid sequence selected from the group consisting of SEQ ID No: 24, 25, 52, and 54, and
>
> b the NFR polypeptide that is NFR5 or a functional fragment thereof, having an amino acid sequence selected from the group consisting of SEQ ID No: 8, 15, 32, 40, and 48.

Because the amended claims all require sequences (SEQ ID NOs 8, 15, 24, 25, 32, 40, 48, 52 and 54), which the examiner had indicated as allowable in the first Office action on the merits and because all the amended claims require a sequence which falls into the scope of the amended claims (at least 70% identical to the elected SEQ ID No 8) it would not be appropriate to continue to maintain the lack of unity requirement amongst these sequences.

DECISION

The petition is **GRANTED** for the reasons set forth above.

The notice of non-responsive amendment has been vacated as incorrect. Applicants reply filed 21 May 2009 was bona fide response. The paper will be relabeled as a miscellaneous letter in PALM so that applicants will NOT receive negative Patent Term Adjustment for the response filed 21 May 2009.

The lack of unity determination and election of species requirements have been withdrawn. Groups I-V are rejoined for concurrent examination.

The application will be forwarded to the examiner for preparation of an Office action consistent with this decision, in which the claims 30-58 will be examined together on the merits.

Should there be any questions about this decision, please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0512 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Remy Yucel
Director, Technology Center 1600

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TARRYTOWN NY 10591

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APR 09 2010

OFFICE OF PETITIONS

In re Application of
Rolf Moors et al.
Application No. 10/563,201
Filed: January 3, 2006
Attorney Docket No. **4**-22911

: ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed February 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application was held abandoned on August 20, 2009 and a Notice of Abandonment was mailed on January 29, 2010, for failure to timely respond to the Final Office Action mailed May 19, 2009.

In response thereof, petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 1796 for processing of the RCE.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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 an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

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LICATA & TYRRELL P.C.
66 E. MAIN STREET
MARLTON NJ 08053

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ON PETITION

In re Application of :
Urbaniak, et al. :
Application No. 10/563,204 :
Filed: July 10, 2006 :
Attorney Docket No. ABLE0032US.NP :
For: PHARMACEUTICAL
COMPOSITIONS COMPRISING AN
EPITOPE OF PLATELET GPIIIA PROTEIN

This is a decision on the petition under 37 CFR 1.137(b), filed December 12, 2008, to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Restriction Requirement, mailed February 22, 2008, which set a one month shortened statutory period for reply. Applicants obtained a one month extension of time. However, no reply being received in the Office, this application became abandoned on April 23, 2008. A Notice of Abandonment was mailed on December 12, 2008.

Applicants have submitted a proper reply to the Restriction Requirement in the form of an election with traverse, an acceptable statement of the unintentional nature of the delay in responding to the Restriction Requirement, and the $810.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the file will be returned to Technology Center AU 1644 for consideration of the election with traverse filed on December 12, 2008.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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WESTMAN CHAMPLIN & KELLY, P.A.
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900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Zhengfu Han	: DECISION ON REQUEST FOR
Patent Number	: 7596318	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/563,224	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/03/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **604** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TECHNOLOGY CENTER 2600

SNELL & WILMER L.L.P.
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA CA 92626

In re Application of :
Joseph McCrossan, et al. :
Application No. 10/563,262 : DECISION ON PETITION
Filed: June 5, 2006 : TO MAKE SPECIAL
For: **RECORDING MEDIUM, RECORDING METHOD, REPRODUCTION APPARATUS AND METHOD, AND COMPUTER-READABLE PROGRAM** :

This is a decision on the petition filed August 28, 2006 (Certificate of Mailing dated August 23, 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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SNELL & WILMER L.L.P.
600 ANTON BOULEVARD
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COSTA MESA CA 92626

In re Application of :
Joseph McCrossan, et al. :
Application No. 10/563,263 : DECISION ON PETITION
Filed: June 6, 2006 : TO MAKE SPECIAL
For: **RECORDING MEDIUM, RECORDING METHOD, REPRODUCTION APPARATUS AND METHOD, AND COMPUTER-READABLE PROGRAM** :

This is a decision on the petition filed August 28, 2006 (Certificate of Mailing dated August 23, 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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Novartis Animal Health US, Inc.
3200 Northline Avenue, Suite 300
Greensboro, NC 27408

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OFFICE OF PETITIONS

In re Application of :
Nuno Miguel Simoes Dos Santos, et. al. :
Application No. 10/563,276 : ON PETITION
Filed: January 4, 2006 :
Attorney Docket No. VA/H-33271A :

This is a decision on the petition under 37 CFR 1.137(b), filed March 26, 2009, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed on July 30, 2008. A Notice of Abandonment was mailed on February 19, 2009.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Alireza Behrooz 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 on whose behalf he/she acts. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

Additionally, 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.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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.

This application file is being referred to Technology Center Art Unit 1654 for review of the amendment filed with the present petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Alireza Behrooz
Womble Carlyle Sandridge & Rice, PLLC
1401 Eye Street, NW – Seventh Floor
Washington, DC 20005

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,284	06/02/2006	Makoto Nakashizuka	HZA-0002	4312

7590 09/05/2008

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

EXAMINER	
SHIKHMAN, MAX	

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
09/05/2008	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.

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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

Mail Date: 04/21/2010

Applicant	: Andreas Rochling	: DECISION ON REQUEST FOR
Patent Number	: 7655599	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/563,328	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **673** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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17 JUL 2006

Jeffrey R. Filipek
Wenderoth, Lind & Ponack, LLP
2003 K Street, N.W. Suite 800
Washington, DC 20006-1021

In re Application of :
SHIBAHARA, et al. :
U.S. Application No.: 10/563,357 : DECISION ON PETITION
PCT No.: PCT/JP04/10903 :
Int. Filing Date: 23 July 2004 : UNDER 37 CFR 1.182
Priority Date: 24 July 2003 :
Attorney's Docket No.: 2005 2041A :
For: ENCODING METHOD DECIDING APPARATUS: IMAGE ENCODING APPARATUS, ENCODING : MODE DECIDING METHOD, AND ENCODING : MODE DECIDING PROGRAM :

This decision is in response to applicant's "Petition For a Change of Inventor Name" filed 12 June 2006 in the United States Patent and Trademark Office (USPTO). Applicant is advised that these petitions are treated under 37 CFR 1.182 which requires a petition fee of $400.00. Therefore, the remaining $270.00 due for the petition fee will be deducted from deposit account number 23-0975 as authorized.

BACKGROUND

Applicant timely entered the U.S. National stage on 03 January 2006 with payment of the full U.S. Basic National fee.

On 24 April 2006, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 12 June 2006, applicant filed the present petition accompanied by an affidavit executed by the inventor explaining her change in name.

DISCUSSION

The present petition is accompanied by a declaration setting forth the procedure whereby the change of name was effected; namely by marriage. The declaration is executed by Mrs.

to grant applicant's petition at this time. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have now been satisfied.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Youji Notoya to Youji Shibahara is **GRANTED**.

The application has an international filing date of 23 July 2004 under 35 U.S.C. 363 and will be given a date of **24 June 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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In re Application of	:	
Pieter Gijsman, et al.	:	
Application No. 10/563,378	:	DECISION GRANTING PETITION
Filed: January 5, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 4662-123	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, February 25, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 1796 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed, information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

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

03 MAR 2006

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Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

In re Application of
Namvar
Application No.: 10/563,396
PCT No.: PCT/SE04/00219
Int. Filing Date: 18 February 2004
Priority Date: 18 February 2003
Attorney Docket No.: 047935/306036
For: Signal Transmission Management System

DECISION

ON

PETITION

The petition to revive under 37 CFR 1.137(b) filed 05 January 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire delay in filing the required reply from the due date of 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).

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
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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	: Reinhard Kogel	: DECISION ON REQUEST FOR
Patent Number	: 7649755	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/563,432	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/20/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **305** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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2040 MAIN STREET
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IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of :
Graig Gregory Smith :
Application No. 10/563,452 : ON PETITION
Filed: :
Attorney Docket No. FBRIC53.001APC :

This is a decision on the petition under 37 CFR 1.137(b), filed July 6, 2007, 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 Missing Requirements (Notice) mailed April 10, 2006. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 11, 2006.

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

This matter is being referred to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions

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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
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BOSTON MA 02110

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OFFICE OF PETITIONS

In re Patent No. 7,414,141 :
Application No. 10/563,459 :
Filed: July 10, 2006 : ON PETITION
Issued: August 19, 2008 :
Attorney Docket No. HGX-004.01 :

This is a decision on the petition filed May 29, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name, of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

24 JUL 2008

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

In re Application of	:	
WANG et al	:	
Application No.: 10/563,471	:	
PCT No.: PCT/CN2004/000728	:	
Int. Filing Date: 02 July 2004	:	DECISION
Priority Date: 03 July 2003	:	
Attorney Docket No.: 56860/C306	:	
For: C-GLYCOSYLISOFLAVONES...	:	
USE OF THE SAME	:	

This decision is in response to applicants' "PETITION TO CORRECT SPELLING OF INVENTOR NAME... DEFECTIVE RESPONSE," filed on 13 June 2008 indicating that the executed declaration filed on contains the correct spelling of the third inventors' name Shengqi WANG.

The published PCT application had an error since Shengqi WANG was misspelled as Shangri WANG.

BACKGROUND

On 03 January 2006, applicants filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee. Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed oath or declaration was filed at that time.

On 28 January 2008, 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... is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68." The notification indicated that a new oath or declaration must be submitted within two (2) months from the date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 14 March 2008, applicants filed an executed declaration.

On 14 May 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) stating that spelling of the third inventor's first name on the declaration does not correspond with the spelling o the published application.

On 13 June 2008, applicants submitted the current petition stating that the third named inventor listed as Shingqi WANG, which is his correct spelling rather than as Shangri WANG.

DISCUSSION

The correct name of the third joint-inventor is "Shengqi WANG" as filed in the executed declaration on 14 March 2008, and not as it appeared in the publication of the international application. Petitioner has stated that the name was incorrectly spelled in the international application but now has been corrected. Accordingly, the correct name, Shengqi WANG, now appears in the declaration as filed on 14 March 2008 to the USPTO.

DECISION

For the reasons above, the petition under 37 CFR 1.181 is **GRANTED** that the correct spelling of the fifth joint inventor is Shengqi WANG.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
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NEW YORK, NY 10036

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OFFICE OF PETITIONS

In re Application of :
Poul Henrik Ahm :
Application No. 10/563,472 :
Filed: January 4, 2006 :
Attorney Docket No. 1175/75668 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.314, filed September 28, 2009, to defer issuance of the patent.

The petition is **GRANTED**.

Issuance will be deferred for a period of one month from the date of this decision. At the end of this period, the application will be referred to Publishing Division to be processed into a patent.

If an additional deferral period is required, another petition and fee should be promptly submitted. The petition must include a showing of extraordinary circumstances. See MPEP 1306.01.

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

By mail: Mail Stop PETITION
Commissioner for Patents
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Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By Fax: (571) 273-8300
ATTN: Office of Petitions

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

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

20 SEP 2006
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KRIEGSMAN & KRIEGSMAN
30 TURNPIKE ROAD, SUITE 9
SOUTHBOROUGH MA 01772

In re Application of: GUTIG, David
U.S. Application No.: 10/563,484
PCT No.: PCT/EP2004/007052
International Filing Date: 29 June 2004
Priority Date: 04 July 2003
Atty Docket No.: 82498
For: METHOD FOR THE DETECTION OF CYTOSINE METHYLATIONS IN DNA BY MEANS OF CYTIDINE DEAMINASES

DECISION ON PETITION TO CORRECT FILING DATE FOR NATIONAL STAGE PAPERS

This decision is issued in response to the "Petition To Accord A Filing Date Under 37 CFR 1.10(c)" filed 03 August 2006. No petition fee is required.

BACKGROUND

On 29 June 2004, applicant filed international application PCT/EP2004/007052. The application claimed a priority date of 04 July 2003, and it designated the United States. On 20 January 2005, the International Bureau (IB) communicated a copy of the international application was communicated to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 04 January 2006.

In January 2005, applicant filed via "Express Mail" a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee. The USPTO assigned the submission a filing date of 05 January 2006.

On 01 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497, the surcharge for filing the oath or declaration later than thirty months after the priority date, additional claims fees, and sequence listing materials.

On 03 August 2006, applicant filed a response to the Notification Of Missing Requirements (Deposit Account No. 11-1755 has been charged the required one-month extension fee). The response includes the required surcharge payment, an explanation asserting that the all required claims fees have been previously paid (based on applicant's small entity status), sequence listing materials, an executed declaration, and the petition to correct the filing date accorded the original national stage submission, considered herein.

DISCUSSION

Applicant asserts that the materials filed to initiate the present national stage application were deposited with the USPS as "Express Mail" on 03 January 2006 (prior to the expiration of thirty months from the priority date).

The submission initiating this national stage application included a transmittal letter containing a certification of mailing by "Express Mail" that identified the "Express Mail" label number (EV782744041US) and the deposit date (03 January 2006). The present petition includes a copy of "Express Mail" label number EV782744041US; this label bears a "date in" of 03 January 2006. In addition, the USPS online tracking database confirms that the USPS accepted this "Express Mail" envelope on 03 January 2006.

Based on applicant's statements in the present petition, the listing of the "Express Mail" label number on the filed transmittal letter, the "date in" on the "Express Mail" label, and the USPS tracking data, it is concluded that the materials filed by applicant to initiate the present national stage application (including payment of the basic national feet) was deposited with the USPS as "Express Mail" on 03 January 2006. Pursuant to 37 CFR 1.10(c), these materials are properly accorded a filing date of 03 January 2006. This date is prior to the expiration of thirty months from the priority date, i.e., 04 January 2006.

It is noted that, with respect to a national stage application, "[f]or most legal purposes, the filing date is the PCT international filing date" (see MPEP section 1893.03(b)). In addition, the date that will be identified as the 371(c) date on the filing receipt and the Notification Of Acceptance (Form PCT/DO/EO/903) is the date on which the requirements under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) are completed. In this case, the 35 U.S.C. 371(c) date is 03 August 2006, the date on which the executed declaration was filed, not the date on which the original national stage materials were submitted (i.e., 03 January 2006).

CONCLUSION

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

The correspondence initiating the present international application, including the basic national fee, is treated as having been filed on 03 January 2006, prior to the expiration of thirty months from the priority date.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including correcting USPTO records to properly identify the filing date of the basic national fee and accompanying materials as 03 January 2006, and processing applicant's 03 August 2006 response to the

Notification Of Missing Requirements. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 03 August 2006.

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

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Schneck & Schneck
P.O. Box 2-E
San Jose, CA 95109-0005

In re Application of :
Steinar Bjornstad :
Application No. 10/563,494 : DECISION ON PETITION
Filed: January 4, 2006 :
Attorney Docket No. OSL-034 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed October 9, 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 10, 2009. A Notice of Abandonment was mailed on April 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 after non-final, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 2613 for appropriate action by the Examiner in the normal course of business on the reply received July 16, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

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32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Malcolm David Macleod	: DECISION ON REQUEST FOR
Patent Number	: 7612715	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/563,495	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/04/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **310** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

23 JUN 2006

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Jason D. Shanske
Iandiorio & Teska
260 Bear Hill Road
Waltham, MA 02451

In re Application of	:	
BURGESS, et al.	:	
U.S. Application No.: 10/563,530	:	DECISION ON PETITION
PCT No.: PCT/GB04/02785	:	
Int. Filing Date: 28 June 2004	:	UNDER 37 CFR 1.137(b)
Priority Date: 30 June 2003	:	
Attorney Docket No.: GJ-274J	:	
For: SEATING APPARATUS FOR USE ON A VEHICLE HAVING A FLAT CARRYING AREA	:	

The petition to revive under 37 CFR 1.137(b) filed 04 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 required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

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

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a compliant, executed oath or declaration of the inventors is required.

Derek A. Putonen
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Office of PCT Legal Administration
Tel: (571) 272-3294
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PERKINS COIE LLP
PO BOX 2168
MENLO PARK CA 94026

In re Application of :
Harley, et al. : DECISION ACCORDING STATUS
Application No. 10/563,533 : UNDER 37 CFR 1.47(a)
Filed: December 23, 2005 :
Attorney Docket No. 38797-8003.US00:

This is in response to the petition under 37 CFR 1.47(a), filed September 12, 2006.

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

Petitioner has shown that non-signing inventor Miller-Martini has refused to sign the declaration. Specifically, petitioner has provided a written refusal from Miller-Martini.

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being forwarded to the Office of Initial Preexamination for preexamination processing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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DAVID M MILLER-MARTINI
409 PINE ST
RIDGWAY PA 15853

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In re Application of :
Calvin Harley, Allison Chin, Nancy :
Yuk-yu Ip, Yung-hou Wong, David :
Miller-Martini :
Application No. 10/563,533 : LETTER
Filed: December 23, 2005 :
Title: Formulations Containing :
Astragalus Extracts and Uses Thereof

Dear Mr Miller-Martini:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

LeeAnn Gorthey
Perkins Coie LLP
Menlo Park CA 94026
phone: 503-727-2116

03 MAR 2006

United States Patent and Trademark Office

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

Jason D. Shanske
Iandiorio & Teska
260 Bear Hill Road
Waltham, MA 02451

In re Application of	:	
Moule	:	
Application No.: 10/563,546	:	DECISION
PCT No.: PCT/GB04/02777	:	
Int. Filing Date: 28 June 2004	:	ON
Priority Date: 30 June 2003	:	
Attorney Docket No.: GJ-273J	:	PETITION
For: A Seat Portion Of A Seat	:	

The petition to revive under 37 CFR 1.137(b) filed 04 January 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition 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. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **04 January 2006**.

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

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RUTAN & TUCKER, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

COPY MAILED

OCT 0 1 2008

OFFICE OF PETITIONS

In re Application of :
WON, Ray :
Application No. 10/563,548 : DECISION ON PETITION
Filed: June 08, 2006 : TO WITHDRAW
Attorney Docket No. **100325.0207US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 11, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed.

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

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ROBERT FISH**
FISH & ASSOCIATES, PC
2603 MAIN STREET
SUITE 1050
IRVINE, CA 92614

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RUTAN & TUCKER, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

COPY MAILED
NOV 19 2008

In re Application of	:	
WON, Ray	:	
Application No. 10/563,548	:	DECISION ON PETITION
Filed: June 08, 2006	:	TO WITHDRAW
Attorney Docket No. **100325.0207US**	:	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 07, 2008.

The request is **APPROVED**.

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

The request was signed by Todd W. Wight on behalf of all attorneys of record who are associated with customer No. 34284. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **RAY WON**
ENGINEERING BUILDING
ONE FLUOR DANIEL DRIVE
ALISO VIEJO, CA 92656

cc: **FISH & ASSOCIATES, PC**
ROBERT D. FISH
2603 MAIN STREET
SUITE 1050
IRVINE CA 92614-6232

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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	: 7603815	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/563,552	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/04/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **693** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 FEB 2008

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

In re Application of:	:	
SAKAMOTO, Hisashi, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/563,564	:	CORRECT FILING DATE
PCT No.: PCT/JP2005/000739	:	(37 CFR 1.10(c))
International Filing Date: 21 January 2005	:	
Priority Date: 23 January 2004	:	
Atty Docket No.: 10873.1791USWO	:	
For: SPECIMEN ANALYZING TOOL	:	

This decision is issued in response to the "Request For Corrected Filing Receipt" filed 12 June 2006, treated herein as a petition under 37 CFR 1.10(c) to correct the 35 U.S.C. 371 date for the present national stage application. No petition fee is required.

BACKGROUND

On 21 January 2005, applicants filed international application PCT/JP2005/000739. The application claimed a priority date of 23 January 2004, and it designated the United States. On 04 August 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., 23 July 2006.

In January 2006, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, an executed declaration, and a translation of the international application into English. The USPTO assigned the submission a filing date of 06 January 2006.

On 18 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements " and the "Date Of Completion Of All U.S.C. 371 Requirements" as 06 January 2006. Also on 18 April 2006, a filing receipt was issued that identified the 35 U.S.C. 371(c) date as 06 January 2006.

On 12 June 2006, applicants filed the "Request For Corrected Filing Receipt" considered herein as a petition under 37 CFR 1.10(c). The petition asserts that the proper filing date for the national stage materials is 05 January 2006, the "date in" indicated on the "Express Mail" customer receipt included with the present petition.

DISCUSSION

The materials filed to initiate the present national stage application include a document that itemizes the included items and bears a "Certificate Under 37 CFR 1.10." The "Certificate Under 37 CFR 1.10" indicates that the application materials were filed using "Express Mail," identifies the "Express Mail" label number as EV775295740US, and states that the date of deposit was 05 January 2006.

The present petition includes a copy of the customer receipt for "Express Mail" label number EV775295740US. The "date in" on the customer receipt is 05 January 2006. In addition, this customer receipt bears a separate USPS stamp, also dated 05 January 2006.

Based on the present petition, the inclusion of the "Express Mail" label number in the "Certificate Under 37 CFR 1.10" filed with the original application materials, and the "date-in" entered by the USPS on the "Express Mail" label, it is concluded that the materials filed to initiate the present national stage application (including the basic national fee, executed declaration, and English translation) were deposited with the USPS as "Express Mail" on 05 January 2006. Pursuant to 37 CFR 1.10(c), these materials are properly accorded a filing date of 05 January 2006.

The Notification Of Acceptance and filing receipt mailed herein, both of which incorrectly identified the 35 U.S.C. 371(c) date as 06 January 2006, are appropriately vacated.

CONCLUSION

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

The materials filed to initiate the present international application (including the basic national fee, executed declaration, and English translation), are properly accorded a filing date of 05 January 2006.

The "Notification Of Acceptance" (Form PCT/DO/EO/903) and filing receipt mailed herein on 18 April 2006, both of which incorrectly identified the 35 U.S.C. 371(c) date as 06 January 2006, are hereby **VACATED**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a corrected Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt that properly identify the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 05 January 2006.

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

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 05/20/2010

Applicant	: Marie-Ange Juliette Etiennette Badet-Denisot	: DECISION ON REQUEST FOR RECALCULATION of PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION
Patent Number	: 7625734	
Issue Date	: 12/01/2009	
Application No	: 10/563,572	
Filed	: 05/25/2006	

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

The patent term adjustment has been determined to be **494** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 04/21/2010

Applicant	: Jorge Ancheyta Juarez	: DECISION ON REQUEST FOR
Patent Number	: 7651604	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/563,577	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **550** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Intervet/Schering-Plough
Animal Health
Patent Dept. K-6-1, 1990
2000 Galloping Hill Road
Kenilworth NJ 07033-0530

In re Application of :
Carcy, et al. :
Application No. 10/563,601 : ON APPLICATION FOR
Filed: May 4, 2006 : PATENT TERM ADJUSTMENT
Attorney Docket No. I-2003.005 US :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705" filed November 2 2009, which is properly treated under 37 CFR 1.705(b). 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. Applicants also set forth some argument as to the adjustment to the patent term on the basis that the Office will take in excess of three years to issue this patent, which is properly treated under 37 CFR 1.705(b).

Relative to the any assertion that the Office will take in excess of 3 years of the filing date to issue this patent, 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].

To the extent that applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **GRANTED to the extent indicated herein**.[2]

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

[2] It is noted that this "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705" was submitted, in part, as an advisement to the Office of an error in the calculation of the Patent Term Adjustment. The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

It is noted that the Office is not assessing the $200.00 application fee under 37 1.18(e) for the portion of the REQUEST FOR RECONSIDERATION OF PATENT

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **twenty-one (21) days.** A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On September 28, 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 83 days. On November 2, 2009, applicants submitted the instant comment. Applicants disclose that the reduction to the patent term adjustment for applicant delay should be increased by 62 days because applicants filed a reply three months and 62 days after the final Office action was mailed April 16, 2009.

The application history has been reviewed and it has been determined that applicant should have been assessed a delay under 37 CFR 1.704(b)[3] for filing a reply in excess of the three month period from the April 16, 2009, mailing date of the final Office action. On April 16, 2009, a final Office action was mailed. On September 16, 2009, applicants filed a response to the final Office action. Thus, applicant failed to engage in

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TERM ADJUSTMENT UNDER 37 CFR 1.705" that is akin to a candor letter, but must assess the $200.00 fee for the treatment of the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705" under 37 CFR 1.705(b).

[3] 37 CFR 1.704(b) states:

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

reasonable efforts to conclude processing or examination of this application. Accordingly, the period of adjustment set forth in § 1.703 should have been reduced under 37 CFR 1.704(b) by 62 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the final Office action, July 17, 2009, and ending on the date the reply was filed, September 16, 2009. A period of reduction of 62 days will be entered.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is twenty-one (21) days.

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

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

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

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Monday
Date: 4/19/2010

PALM INTRANET

Time: 08:26:13

PTA Calculations for Application: 10/563601			
Application Filing Date:	05/04/2006	PTO Delay (PTO):	139
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	56
Post-Issue Petitions:	0	Total PTA (days):	21
PTO Delay Adjustment:	-62		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
86	04/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		62	
65	09/28/2009	MAIL NOTICE OF ALLOWANCE			
64	09/24/2009	ISSUE REVISION COMPLETED			
63	09/24/2009	DOCUMENT VERIFICATION			
62	09/24/2009	EXAMINER'S AMENDMENT COMMUNICATION			
61	09/21/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
60	09/21/2009	NOTICE OF ALLOWABILITY			
57	09/18/2009	DATE FORWARDED TO EXAMINER			
56	09/16/2009	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
55	09/16/2009	NOTICE OF APPEAL FILED			
54	09/16/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
51	08/27/2009	EMAIL NOTIFICATION			
50	08/27/2009	MAIL ADVISORY ACTION (PTOL - 303)			
49	08/24/2009	ADVISORY ACTION (PTOL-303)			
45	07/21/2009	DATE FORWARDED TO EXAMINER			
44	07/16/2009	AMENDMENT AFTER FINAL REJECTION			
43	04/16/2009	ELECTRONIC REVIEW			
42	04/16/2009	EMAIL NOTIFICATION			
41	04/16/2009	MAIL FINAL REJECTION (PTOL - 326)			
40	04/13/2009	FINAL REJECTION			
36	01/29/2009	DATE FORWARDED TO EXAMINER			
35	01/15/2009	RESPONSE AFTER NON-FINAL ACTION		56	33
34	01/15/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			

33	08/20/2008	MAIL NON-FINAL REJECTION	4		28
32	08/18/2008	NON-FINAL REJECTION			
29	05/20/2008	DATE FORWARDED TO EXAMINER			
28	04/16/2008	RESPONSE AFTER NON-FINAL ACTION			
27	01/16/2008	MAIL NON-FINAL REJECTION			
26	01/07/2008	NON-FINAL REJECTION			
23	12/13/2007	DATE FORWARDED TO EXAMINER			
22	12/06/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
21	11/16/2007	MAIL RESTRICTION REQUIREMENT	135		12
20	11/13/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
18	08/12/2007	CASE DOCKETED TO EXAMINER IN GAU			
17	05/18/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	03/06/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	02/22/2007	PG-PUB ISSUE NOTIFICATION			
12	05/04/2006	371 COMPLETION DATE			
11	11/16/2006	APPLICATION DISPATCHED FROM OIPE			
10	05/04/2006	ADDITIONAL APPLICATION FILING FEES			
8	05/04/2006	PRELIMINARY AMENDMENTS			
6	05/04/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Foley and Lardner LLP
Suite 500
3000 K Street NW
Washington, DC 20007

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MAR 18 2008

OFFICE OF PETITIONS

In re Application of :

Reese Randolph Smith III :
Application No. 10/563,602 : DECISION ON PETITION
Filed: February 1, 2006 : TO WITHDRAW
Attorney Docket No. 028338-0239 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 6, 2007.

The request is **APPROVED**.

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

The request was signed by Michael D. Kaminski on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Reese Randolph Smith, III**
17 Wright Court
Succasunna, NJ 07876

cc: **William Illingworth**
Law and Grant Bedford
GE London Patent Operation
15 John Adam Street
London WC2N 6LU
England

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/563,602	02/01/2006	Reese Randolph Smith III	028338-0239

CONFIRMATION NO. 1904

22428
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

POWER OF ATTORNEY NOTICE

OC000000028899679

Date Mailed: 03/17/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/06/2007.

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

/tswilliams/

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

01 MAY 2006

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EGBERT LAW OFFICES
412 MAIN STREET, 7TH FLOOR
HOUSTON TX 77002

In re Application of	:	DECISION ON
Sampad BHATTACHARYA et al	:	
Application No.: 10/563,631	:	
PCT No.: PCT/IN04/000133	:	
Int. Filing Date: 14 May 2004	:	PETITION UNDER
Priority Date: 05 June 2003	:	
Attorney's Docket No.: 1438-15	:	
For: EXTENDED RELEASE OSMO-MIROSEALED	:	
FORMULATION	:	37 CFR 1.137(b)

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY 37 C.F.R. 1.137(b) STATEMENT OF FACTS," filed on 06 January 2006.

BACKGROUND

On 14 May 2004, this international application was filed, claiming an earliest priority date of 05 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 deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 05 December 2005. This international application became abandoned with respect to the United States at midnight on 05 December 2005 for failure to pay the required basic national fee.

On 06 January 2006, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee and the petition fee.

DISCUSSION

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

information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

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

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. 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 **06 Jan 2006.**

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

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

Mail Date: 04/21/2010

Applicant	: Kazumi Okuro	: DECISION ON REQUEST FOR
Patent Number	: 7582781	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/563,635	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **903** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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January 5, 2009
CST

In re application of	:	DECISION ON REQUEST TO
David Wollan	:	PARTICIPATE IN PATENT
Serial No. 10/563,636	:	PROSECUTION HIGHWAY
Filed: March 14, 2008	:	PILOT PROGRAM AND
For: ALCOHOL REDUCTION IN BEVERAGES	:	PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d) to make the above-identified application special, filed November 4, 2008.

The request and petition are **DISMISSED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the IPAU, note where the IPAU application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the IPAU application with similar claims and the IPAU priority application;

(2) Applicant must submit a copy of:

a. The allowable/patentable claim(s) from the IPAU application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO to obtain a copy from DAS; however, if the USPTO is unable to obtain a copy from the DAS, the applicant will be required to submit a copy;
b. An English translation of the allowable/ patentable claim(s), if applicable; and
c. A statement that the English translation is accurate, if applicable;

(3) Applicant must:

a. Ensure 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 IPAU application(s); and
b. Submit a claims correspondence table in English;

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit:
a. Documentation of prior office action:
i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the IPAU application(s) containing the allowable/patentable claims(s) or
ii. if the allowable/patentable claim(s) are from "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
iii. if the IPAU application is a first action allowance then no office action from the IPAU is necessary should be indicated on the request/petition form:
Further, if a copy of the documents from a or b is available via the Dossier Access System (DAS), applicant may request the USPO obtain a copy from the DAS; however, if the USPTO is unable to obtain a copy of the DAS, the applicant will be required to submit a copy;
b. An English language translation of the IPAU Office action from (5)(a)(i)-(ii) above if applicable; and
c. A statement that the English translation is accurate;

(6) Applicant must submit:
a. An IDS listing the documents cited by the IPAU examiner in the IPAU office action (unless already submitted in this application)
b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application); and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition fail because:

(3) All of the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the IPAU application(s).

Specifically, claim 21 does not include the limitation that the solution contacts the membrane on the side opposite to that contacted by the raw permeate, as required in corresponding claim 16 of the IPAU application. The word –side- is missing from the claim.

(5) Applicant must submit documentation of prior office action. Specifically, a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the IPAU application(s) containing the allowable/patentable claims(s).

Although it appears that applicant has provided a copy of the response prepared by applicant dated December 20, 2007 to the first official report, as well as the Notice of

Acceptance dated January 9, 2008 from IP Australia, a copy of the first official report from IP Australia has not been provided as required by item 5 above.

Applicant is given a time period of **ONE MONTH OR THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected within the time period given, the application with await action in its regular turn.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

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.

/Christine Tierney/

_____

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

Commissioner for Patents
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CST

March 3, 2009

In re application of	:	DECISION ON REQUEST TO
David Wollan	:	PARTICIPATE IN PATENT
Serial No. 10/563,636	:	PROSECUTION HIGHWAY
Filed: March 14, 2008	:	PILOT PROGRAM AND
For: ALCOHOL REDUCTION IN BEVERAGES	:	PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the supplemental request to participate in the Patent Prosecution Highway (PPH) program filed January 20, 2009.

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 IPAU, note where the IPAU application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the IPAU application with similar claims and the IPAU priority application;

(2) Applicant must submit a copy of:

a. The allowable/patentable claim(s) from the IPAU application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO to obtain a copy from DAS; however, if the USPTO is unable to obtain a copy from the DAS, the applicant will be required to submit a copy;
b. An English translation of the allowable/ patentable claim(s), if applicable; and
c. A statement that the English translation is accurate, if applicable;

(3) Applicant must:

a. Ensure 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 IPAU application(s); and
b. Submit a claims correspondence table in English;

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit:
a. Documentation of prior office action:
i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the IPAU application(s) containing the allowable/patentable claims(s) or
ii. if the allowable/patentable claim(s) are from "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
iii. if the IPAU application is a first action allowance then no office action from the IPAU is necessary should be indicated on the request/petition form:
Further, if a copy of the documents from a or b is available via the Dossier Access System (DAS), applicant may request the USPO obtain a copy from the DAS; however, if the USPTO is unable to obtain a copy of the DAS, the applicant will be required to submit a copy;
b. An English language translation of the IPAU Office action from (5)(a)(i)-(ii) above if applicable; and
c. A statement that the English translation is accurate;

(6) Applicant must submit:
a. An IDS listing the documents cited by the IPAU examiner in the IPAU office action (unless already submitted in this application)
b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application); and

(7) The required petition fee under 37 CFR 1.17(h).

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

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

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

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.

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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SAN JOSE, CA 95131

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JUL 30 2009

OFFICE OF PETITIONS

In re Application of
Francesco Pessolano
Application No. 10/563,646
Filed: January 6, 2006
Attorney Docket No. NL030809

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 6, 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 February 7, 2009. A Notice of Abandonment was mailed on April 20, 2009. On June 4, 2009, the present petition was filed.

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

This application is being referred to Technology Center AU 2183 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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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
RIVERFRONT PLAZA, EAST TOWER
951 EAST BYRD STREET.
RICHMOND, VA 23219

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OFFICE OF PETITIONS

In re Application of	:	
Donald-Bane Stewart	:	
Application No. 10/563,657	:	DECISION ON PETITION
Filed: May 18, 2006	:	TO WITHDRAW
Attorney Docket No. SPC601 (67316.000003)	:	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 14, 2009.

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

A review of the file record indicates that the power of attorney to Hunton & Williams LLP has been revoked by the assignee of the patent application on May 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 Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **PATENTMETRIX**
14252 CULVER DR.
BOX 914
IRVINE, CA 92604

21 NOV 2006

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BEYER WEAVER & THOMAS LLP
P.O. Box 70250
Oakland, CA 94612-0250

In re Application of :
BRETT *et al* :
U.S. Application No.: 10/563,675 :
PCT No.: PCT/GB04/02963 :
Int. Filing Date: 09 July 2004 : **DECISION**
Priority Date: 09 July 2003 :
Attorney Docket No.: BOLTP001 :
For: SYSTEM AND METHOD FOR :
SENSING AND INTERPRETING :
DYNAMIC FORCES :

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed with the United States Designated/Elected Office (DO/EO/US) on 10 October 2006.

BACKGROUND

On 10 May 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 10 October 2006, applicants filed a response which was accompanied by, *inter alia*, the subject petition; a declaration signed by two of the three named inventors; a statement by Angela Kukula ("Decl."); a three-month extension and fee; the petition fee of $200.00; the $130.00 surcharge fee; and exhibits A-D.

DISCUSSION

Applicants claim that Anthony Molloy refuses to cooperate in the above-identified application and have filed the subject petition in response to the Form PCT/DO/EO/905 mailed 10 May 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 is now $200.00. Petitioner submitted a

$130.00 petition fee. The $70.00 difference has been charged to Deposit Account No. 50-0388 as authorized.

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

17 Mariner Avenue
Edgbaston
Birmingham
England B16 9DF

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. 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).

Items (1), (3) and (4) of 37 CFR 1.47(a) are complete.

Regarding item (2), applicants' submitted a declaration by Angela Kukula who states that a complete copy of the subject application was mailed to the nonsigning inventor on 19 April 2006 and 03 July 2006. Copies of the two cover letters were included which shows that a copy of the application was provided to Mr. Molloy on 03 July 2006. Mr. Molloy responded asking for proof that he assigned his rights in the subject application. A copy of this letter from Mr. Molloy dated 05 July 2006 was provided.

Ms. Kukula did not indicate whether the 37 CFR 1.47(a) applicant responded to Mr. Molloy's request but stated only that she attempted to contact the nonsigning inventor via telephone on "numerous occasions from about 19 April 2004 to about 31 July 2006." Decl. at ¶ 9. Ms. Kukula declared that "he has either not answered my call or has not returned my call." Id. Ms. Kukula concludes that Mr. Molloy's conduct constitutes a refusal to cooperate. Id. at ¶ 10.

The evidence provided is not sufficient to show a refusal to cooperate by Mr. Molloy. There is no evidence that applicant responded to the request by Mr. Molloy that the 37 CFR 1.47(a) applicant provide proof that the inventor's rights had been assigned. This is not an unreasonable demand and should have been provided to Mr. Molloy. Awaiting a response from a reasonable request does not constitute a refusal. For this reason, item (2) is not yet satisfied.

All requirements of 37 CFR 1.47(a) are not yet complete.

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

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18 APR 2007

BEYER WEAVER & THOMAS LLP
P.O. Box 70250
Oakland, CA 94612-0250

In re Application of :
BRETT *et al* :
U.S. Application No.: 10/563,675 :
PCT No.: PCT/GB04/02963 :
Int. Filing Date: 09 July 2004 : **DECISION**
Priority Date: 09 July 2003 :
Attorney Docket No.: BOLTP001 :
For: SYSTEM AND METHOD FOR :
SENSING AND INTERPRETING :
DYNAMIC FORCES :

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed with the United States Designated/Elected Office (DO/EO/US) on 10 October 2006.

BACKGROUND

On 21 November 2006, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 12 February 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failing to reply to the Form PCT/DO/EO/905 mailed 10 May 2006.

On 27 February 2007, applicants filed the renewed petition which was accompanied by, *inter alia*, an "Additional Statement of Facts 37 CFR §1.47(a)" and exhibit E.

DISCUSSION

The Form PCT/DO/EO/909 mailed 12 February 2007 was sent in error, and is hereby **VACATED**.

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

Item (2) was not satisfied in the initial petition as applicants failed to respond to the request by Mr. Molloy that applicants provide proof that he assigned his rights in the

subject application.

In the renewed petition, applicants submitted a statement by Angela Kukula who claims that a copy of an assignment executed by Mr. Molloy regarding the subject application was provided on 18 December 2006. A copy of the application and request that the nonsigning inventor sign and return the documents were also provided. Ms. Kukula states that Mr. Molloy "did not return any of the paperwork as requested."

The conduct of Mr. Molloy is sufficient to constitute a refusal to cooperate pursuant to section 409.03(d) of the MPEP. Item (2) of 37 CFR 1.47(a) is now satisfied.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 09 July 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 10 October 2006.

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

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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

23 FEB 2007

KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
SUITE #1600
PORTLAND OR 97204-2988

In re Application of
GLADWIN et al.
Application No.: 10/563,683
PCT No.: PCT/US04/22232
Int. Filing Date: 09 July 2004
Priority Date: 09 July 2003
Attorney Docket No.:4239-67618-07
For: USE OF NITRITE SALTS FOR THE TREATMENT OF CARDIOVASCULAR CONDITIONS

DECISION ON

PETITION UNDER

37 CFR 1.497(d)

This is a decision on applicants' "Response to Notification of Defective Response and Request for Correction of Inventorship", filed on 08 December 2006 in the United States Patent and Trademark Office (USPTO), requesting the addition of Richard O. Cannon, III as an inventor in the above reference application.

BACKGROUND

On 04 October 2006, applicant filed declarations in response to the 27 April 2006 Notification of Missing Requirements, identifying the international application and identified the inventors listed in the published international application and Richard O. Cannon III who was not identified as an inventor on the published application. Applicant did not provide Form PCT/IB/306 adding Richard O. Cannon III as co-inventor.

On 09 November 2006, a Notification of Defective Response was mailed to applicant indicating that the declarations were unacceptable because (1) it was not executed in accord with 37 CFR 1.497(a) and (b) and (2) inventor Richard O. Cannon III was not listed on the published application.

On 08 December 2006, applicant filed a petition under 37 CFR 1.497(d).

DISCUSSION

As previously indicated, Richard O. Cannon III was not named as an inventor in the published international application PCT/US04/22232. The declaration submitted on 4 October 2006 identifies Richard O. Cannon III as co-inventor and thus is not in compliance with 37 CFR 1.497(a) and (b). Richard O. Cannon III was not accepted under PCT Rule 92*bis* as co-inventor. In response to the 09 November 2006 Notification of Defective Response, applicant now files a petition under 37 CFR 1.497(d) to add Richard O. Cannon III as an inventor.

Petition under 37 CFR 1.497(d)

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)).

Applicant satisfied Items (1) and (2) above.

With regard to Item (3), applicant provided Written Consents of The Government of the United States of America through The Department of Health and Human Services and National Institutes of Health Office of Technology Transfer, The University of Alabama Research Foundation, Wake Forest University, Loma Linda University and The Board of Supervisors of Louisiana State University (assignees) to correct the inventorship under 37 CFR 1.497(d)(3) consenting to the addition of Richard O. Cannon III as an inventor in this application. Item (3) above has been satisfied.

Accordingly, applicant has met all of the requirements of 37 CFR 1.497(d) to add Richard O. Cannon III as co-inventor in the above-identified international application.

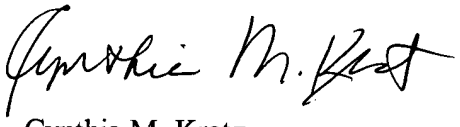
The separate complete declarations met the requirements of 37 CFR 1.497 (a) and (b) and are acceptable as filed.

CONCLUSION

The declarations executed by Richard O. Cannon III and the joint inventors named in the above referenced application are 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 Richard O. Cannon III as an inventor is hereby **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (2) and (4) date is **04 October 2006.**



Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286
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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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QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

Mail Date: 04/21/2010

Applicant	: J. Christopher Anderson	: DECISION ON REQUEST FOR
Patent Number	: 7638297	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/563,686	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/03/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **337** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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28 FEB 2007

C. Andrew Im
Fulbright & Jaworski, L.L.P.
666 Fifth Avenue
New York, NY 10103

In re Application of
BENVENISTE
Application No.: 10/563,687
PCT No.: PCT/EP04/09242
Int. Filing Date: 02 July 2004
Priority Date: 02 July 2003
Attorney Docket No.: NY-GRYN 229-US
For: DIAGNOSTIC TEST

DECISION ON PETITION

UNDER 37 CFR 1.42

This decision is in response to applicant's "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS" filed 11 December 2006 In the United States Patent and Trademark Office (USPTO). The response is being treated as a request for status pursuant to 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 02 July 2004, applicant filed international application PCT/EP04/09242, which claimed a priority date of 02 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 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, 02 January 2006.

On 03 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee and an English translation of the international application.

On 09 May 2006, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 11 December 2006, applicant filed the present response which included a combined declaration and power of attorney which was executed by Laurent Benveniste as legal representative to the estate of deceased inventor Jacques Benveniste. The response was accompanied by a petition for a five-month extension of time and payment of the appropriate extension of time fee. 09 December 2006 being a Saturday, the response with extension of time is

considered timely filed.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

An examination of the filed declaration and power of attorney finds that the document lists the post office, residence and citizenship for both the deceased inventor Jacques Benveniste and the legal representative to his estate, Laurent Benveniste. As such, the declaration is in compliance with 37 CFR 1.497(a)-(b)

In light of the above, it is proper to grant applicant's request at this time.

CONCLUSION

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

This application will be given an international application filing date of 02 July 2004 and a date of **11 December 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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31 JAN 2006

MARK G. MORTENSON
POST OFFICE BOX 310
NORTH EAST, MD 21901-0310

In re Application of HOLLADAY et al :
U.S. Application No.: 10/563,688 :
PCT Application No.: PCT/US04/17567 :
Int. Filing Date: 03 June 2004 : DECISION
Priority Date Claimed: 03 June 2003 :
Attorney Docket No.: ABL 200 PCT US :
For: TREATMENT OF HUMANS WITH :
COLLOIDAL SILVER COMPOSITION :

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 03 January 2006.

BACKGROUND

On 03 June 2004, applicant filed international application PCT/US04/17567, which claimed priority of an earlier United States application filed 03 June 2003. The thirty-month period for paying the basic national fee in the United States expired on 03 December 2005.

International application PCT/US04/17567 became abandoned as to the United States for failure to timely pay the basic national fee.

On 03 January 2006, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

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

With regard to item (1), applicant has provided the required 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 03 June 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 03 January 2006.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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STEFAN KIRCHANSKI
VENABLE LLP 2049 CENTURY PARK EAST
21ST FLOOR
LOS ANGELES, CA 90067

MAILED

OCT 0 1 2009

OFFICE OF PETITIONS

In re Application of
Robert J. Holladay
Application No. 10/563,688
Filed: January 3, 2006
Attorney Docket No. 80663.251821

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 2, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Joanne Esty on behalf of all attorneys of record however the request does not include a Customer Number. Accordingly, since the practitioners were appointed by a Customer Number, the Request must reflect withdrawal of practitioners associated with same Customer Number.

Further, the Office will only accept correspondence address changes 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, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

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.

There are no outstanding Office actions that require a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

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VENABLE LLP 2049 CENTURY PARK EAST
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LOS ANGELES, CA 90067

MAILED

APR 2 8 2010

OFFICE OF PETITIONS

In re Application of	:	
Robert J. Holladay	:	DECISION ON PETITION
Application No. 10/563,688	:	TO WITHDRAW
Filed: January 3, 2006	:	FROM RECORD
Attorney Docket No. 80663.251821	:	

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 March 12, 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.

In the instant application, the practitioner(s) were appointed via Customer Number the request however does not indicate a customer number to withdraw by. Therefore, the current request cannot be approved. Any subsequent request must withdraw all associated practitioner(s) of record in the same manner as appointed.

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

There are no outstanding Office actions that require a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

22 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Arthur H .K. Djang
Sante International, Inc
111 West Second Street
Suite 4000
Jamestown NY 14701

In re Application of DJANG et al.
Application No.: 10/563,713
PCT No.: PCT/US04/22330
Int. Filing: 13 July 2004
Priority Date: 17 July 2003
Attorney Docket No.: SII-04
For: DIETARY SUPPLEMENT FOR PROMOTING CONTROL OF BLOOD SUGAR LEVELS AND ASSOCIATED PATHOLOGY IN TYPE 2 DIABETICS

DECISION ON

PETITION TO REVIVE

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 07 March 2007 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that on 27 April 2006, a Notification of Insufficient Fees was mailed to applicant indicating that additional claim fees of $405 were required.. The application went abandoned for failure to pay these fees by the deadline set forth in the Notification, two months from the mail date or by 27 June 2006. These fees are provided with the petition to revive. 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 **7 January 2006**.

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

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

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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

MAILED

APR 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Heinrich Becker, et al.	:	
Application No. 10/563,716	:	DECISION GRANTING PETITION
Filed: April 11, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 14113-00180-US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 30, 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 22, 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 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 1621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement .

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

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

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2040 MAIN STREET
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IRVINE, CA 92614

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JAN 28 2008

OFFICE OF PETITIONS

Applicant: Agger et al.
Appl. No.: 10/563,731
International Filing Date: July 7, 2004
Title: Adjuvant Combinations of Liposomes and Mycobacterial Lipids for Immunization Compositions and Vaccines
Attorney Docket: PLOUG8 001APC
Pub. No.: US 2006/0286128-A1
Pub. Date: December 21, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 21, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein "Adjuvant Combinations of Liposomes and Mycobacterial Lipids for Immunization Compositions and Vaccines" is misprinted as "Adjuvant Combinations of Liposomes and Mycobacteriaial Lipids for Immunization Compositions and Vaccines" in the title of the invention.

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

The error on the front page of the publication wherein "Adjuvant Combinations of Liposomes and Mycobacterial Lipids for Immunization Compositions and Vaccines" is misprinted as "Adjuvant Combinations of Liposomes and Mycobacteriaial Lipids for Immunization

[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).

Compositions and Vaccines" in the title of the invention may be an Office error, but it is a not material Office error under 37 CFR 1.221. The misspelling of the word "Mycobacterial" in the title does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

On September 14, 2006, a Filing Receipt was mailed by the Office, which improperly listed the title. To avoid this type of problem in the future, applicant's representative should review the Filing Receipt and make a request for a Corrected Filing Receipt.

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

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

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

By facsimile: 571-273-8300

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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27 JAN 2006

VINCENT LAUER
1 VILLA DE BEAUTE
94130 NOGENT SUR MARNE
FRANCE

In re Application of LAUER	:	
U.S. Application No.: 10/563,738	:	
PCT Application No.: PCT/FR04/01733	:	DECISION
Int. Filing Date: 02 July 2004	:	
Priority Date Claimed: 04 July 2003	:	
Attorney Docket No.: (none)	:	
For: IMAGING DEVICE	:	

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 06 January 2006.

BACKGROUND

On 02 July 2004, applicant filed international application PCT/FR04/01733, which claimed priority of an earlier France application filed 04 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 20 January 2005. The thirty-month period for paying the basic national fee in the United States expired on 04 January 2006.

International application PCT/FR04/01733 became abandoned as to the United States for failure to timely pay the basic national fee.

On 06 January 2006, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

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

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

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

With regard to item (3), applicant has provided the required statement.

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

CONCLUSION

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a translation of the international application into English and the appropriate late filing processing fee must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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KAGAN BINDER, PLLC
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221 MAIN STREET NORTH
STILLWATER MN 55082

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SEP 30 2008

OFFICE OF PETITIONS

Applicant: Lawson et al.
Appl. No.: 10/563,745
International Filing Date: July 8, 2004
Title: STEROID MODIFIED SOLATRIOSES
Attorney Docket No.: VOS0049/US
Pub. No.: 2007/0135358 A1
Pub. Date: June 14, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 31, 2007, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

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

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

25 JUN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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INTELLECTUAL PROPERTY DEPARTMENT
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WASHINGTON, DC 20006-1109

In re Application of SERVANT et al	:	
U.S. Application No.: 10/563,758	:	
PCT Application No.: PCT/US2004/021853	:	
Int. Filing Date: 09 July 2004	:	DECISION
Priority Date Claimed: 10 July 2003	:	
Attorney Docket No.: 54315US	:	
For: IMPROVED ELECTROPHYSIOLOGICAL ASSAYS	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)", "Petition Under § 1.47(A) to Accept Joint Inventor Declarations That Fails to Include Signature of Inventor Imran Clark Who Cannot be Located After Diligent Efforts by Applicant", and "Petition Under 37 CFR 1.497(D) Relating to Oath or Declaration Under 35 USC 371(c)(4) Adding Additional Inventor Omitted in the International (PCT) Application Without Deceptive Intent" filed 06 March 2008.

BACKGROUND

On 09 July 2004, applicant filed international application PCT/US2004/021853, which claimed priority of an earlier United States application filed 10 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 10 January 2006.

On 09 January 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 07 May 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 09 July 2007, applicant filed an executed declaration.

On 24 September 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that inventive entity listed on the declaration filed 09 July 2007 differs from that listed on the international application.

On 08 October 2007, applicant filed a response to the Notification of Defective Response.

On 06 February 2008, this Office mailed a communication which indicated that the 08 October 2007 response did not fully remedy the deficiency noted in the Notification of Defective Response and that the present application is accordingly abandoned.

On 06 March 2008, applicant filed the present petitions under 37 CFR 1.137(b), 37 CFR 1.47(a), and 37 CFR 1.497(d).

DISCUSSION

I. Petition Under 37 CFR 1.137(b)

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

With regard to item (1), applicant has not provided the required reply under 35 U.S.C. 371 as discussed in §III below.

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

With regard to item (3), applicant has provided the required statement.

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

II. Petition Under 37 CFR 1.47(a)

The petition states that joint inventor Imran Clark cannot be located after diligent effort. However, the declaration filed 09 July 2007 is acceptable with respect to inventors Servant, Chang, Redcrow, and Clark, since pages 1-4 form a complete declaration, based on petitioner's statement that the "earlier submitted Declaration was signed by all of the inventors including Imran Clark (signature dated May 21, 2007)." This statement is construed as a representation that inventor Clark was presented with pages 1-4 of the declaration prior to his execution of the document. If this is an incorrect interpretation, petitioner is required to notify this Office.

Accordingly, a petition under 37 CFR 1.47(a) is not required with respect to inventor Clark.

The 09 July 2007 declaration is not acceptable with respect to inventors Ray and Moyer, because it is not proper to submit only the signature page of a declaration and then combine it with pages from another copy of the declaration. The 06 March 2008 submission of complete declarations executed by inventors Ray and Moyer puts the present application in compliance with 37 CFR 1.497(a).

III. Petition Under 37 CFR 1.497(d)

The petition states that the sixth inventor was inadvertently omitted from the international application.

MPEP 1893.01(e) states in relevant part,

> 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 92bis. 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)).

Petitioner has provided items (A) and (B) above. Although a statement of consent from the purported assignee Senomyx, Inc. has been provided, ownership of the application has not been established in accordance with 37 CFR 3.73(b)(1). While a statement under 37 CFR 3.73(b) was filed on 26 April 2006, the copy of the assignment referenced in the 26 April 2006 37 CFR 3.73(b) statement is not present in the application file.

CONCLUSION

For the reasons set forth in §I above, the petition under 37 CFR 1.137(b) is DISMISSED without prejudice.

For the reasons set forth in §II above, the petition under 37 CFR 1.47(a) is DISMISSED AS MOOT.

For the reasons set forth in §III above, the petition under 37 CFR 1.497(d) is DISMISSED without prejudice.

If reconsideration on the merits of the petitions is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petitions Under 37 CFR 1.137(b) and 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.

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UNITED STATES PATENT AND TRADEMARK OFFICE

0 7 JAN 2009

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In re Application of SERVANT et al	:	
U.S. Application No.: 10/563,758	:	
PCT Application No.: PCT/US2004/021853	:	
Int. Filing Date: 09 July 2004	:	DECISION
Priority Date Claimed: 10 July 2003	:	
Attorney Docket No.: 54315US	:	
For: IMPROVED ELECTROPHYSIOLOGICAL ASSAYS	:	

This is in response to applicant's "Request for Reconsideration of Petition Decision Regarding Renewed Petition" filed 27 October 2008, which is being treated as renewed petitions under 37 CFR 1.137(b) and 37 CFR 1.497(d).

BACKGROUND

On 09 July 2004, applicant filed international application PCT/US2004/021853, which claimed priority of an earlier United States application filed 10 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 10 January 2006.

On 09 January 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 07 May 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 09 July 2007, applicant filed an executed declaration.

On 24 September 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that inventive entity listed on the declaration filed 09 July 2007 differs from that listed on the international application.

On 08 October 2007, applicant filed a response to the Notification of Defective Response.

On 06 February 2008, this Office mailed a communication which indicated that the 08 October 2007 response did not fully remedy the deficiency noted in the Notification of Defective Response and that the present application is accordingly abandoned.

On 06 March 2008, applicant filed the present petitions under 37 CFR 1.137(b), 37 CFR 1.47(a), and 37 CFR 1.497(d).

On 25 June 2008, this Office mailed a decision dismissing the 06 March 2008 petitions.

On 27 October 2008, applicant filed the present renewed petitions under 73 CFR 1.137(b) and 37 CFR 1.497(d).

DISCUSSION

I. Petition Under 37 CFR 1.137(b)

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

With regard to item (1), 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.

II. Petition Under 37 CFR 1.497(d)

The petition states that the sixth inventor was inadvertently omitted from the international application.

MPEP 1893.01(e) states in relevant part,

> 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 92bis. 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)).

Petitioner has previously provided items (A) and (B) above. With regard to item (C), the renewed petition states that although a related application was assigned by at least one of the original named inventors, an assignment referencing the present application was not executed by any of the original named inventors.

CONCLUSION

For the reasons set forth in §I above, the renewed petition under 37 CFR 1.137(b) is GRANTED.

For the reasons set forth in §II above, the renewed petition under 37 CFR 1.497(d) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 09 July 2004 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 06 March 2008.

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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08 JUN 2006

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In re Application of :
SALMAN et al. :
Application No.: 10/563,772 : DECISION ON REQUEST
PCT No.: PCT/US04/22150 :
Int. Filing Date: 09 July 2004 :
Priority Date: 09 July 2003 :
Attorney Docket No.: 109909-146503 :
For: SHARED INPUT KEY METHOD AND APPARATUS

This decision is in response to applicants' "Petition under 37 CFR 1.181" filed 25 May 2006. Applicants are notifying the United States Patent and Trademark Office that the name of the second inventor is G. Eric Engstrom as indicated on the declaration rather than Eric G. Engstrom as indicated on the published international application.

Applicant states in the present petition that, "[t]he international application as published by International Bureau does reflect the inventor's name as Eric G. Engstrom, however the PCT Request submitted with the International Application correctly reflects the inventor's name as G. Eric Engstrom on Sheet no. 2 of the Request and on Sheet no. 5 of the PCT Request (which Sheet no. 5 constitutes part of the Declaration of Inventorship)." A review of application file and other USPTO records reveals that the name of the second inventor is G. Eric Engstrom. Hence, the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 27 April 2006 is vacated and applicant's petition under 37 CFR 1.181 is appropriately **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office for further processing and for review of the national stage papers submitted 04 January 2006.

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19 OCT 2006

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In re Application of HUTTER et al.
Application No.: 10/563,773
PCT No.: PCT/EP04/51335
Int. Filing: 02 July 2004
Priority Date: 04 July 2003
Attorney Docket No.: 114732-14699
For: METHOD AND APPARATUS FOR THE THERMAL ANALYSIS OF SUBSTANCES

DECISION ON

PETITION TO REVIVE

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 13 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the basic national fee of $300 has now 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 Art Unit 2879 for examination in due course.

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0 9 FEB 2007

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In re Application of	:	DECISION ON
ORLITZKY, Anton., et al	:	
Application No.: 10/563,791	:	
PCT No.: PCT/CA2004/000994	:	
Int. Filing Date: 7 July 2004	:	PETITION UNDER
Priority Date: 7 July 2003	:	
Attorney Docket No.: BFETH-1036832	:	
For: REUSABLE FLUID DISPENSER	:	37 CFR 1.182

This is in response to applicants' submission "COMMUNICATION TO EXAMINER AND RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE" filed on 13 November 2006, which is being treated as a petition under 37 CFR 1.182. This submission states that the correct inventor's name for the first listed inventor, " Tony ORLITZKY," is "Anton ORLITZKY." The petition fee of $400.00 has been charged to petitioner's Deposit Account No.: 50-1990.

BACKGROUND

On 06 January 2006, applicants filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee. Applicants, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed oath or declaration was filed at that time.

On 11 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." The notice also indicated that all of the items set forth above must be submitted within two (2) months from the date of this notice or by 32 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment.

On 11 August 2006 applicants submitted a "RESPONSE TO MISSING REQUIREMENTS UNDER 35 U.S.C. 371," which included an executed Declaration.

On 13 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916).

ON 13 November 2006, applicants responded with the current petition.

DISCUSSION

The correct name of the first joint-inventor is "Anton ORLITZKY." Applicants indicate that the name, Tony, published in the international application was using his nickname because "Tony" is a common short form nickname of "Anton." However, the legal correct name, Anton, appears in the declaration filed to the USPTO. Also the correct spelling of his last name is "ORLITZKY" therefore his correct name "Anton ORLITZKY" will be reflected in the US national stage processing.

Applicants' response is accepted as a sufficient response to the Notification of Missing Requirements (FORM PCT/DO/EO/905) mailed on 19 April 2005, and to NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) mailed 13 October 2006.

However, for the reason below, the application may not enter into national stage processing at this time.

The declaration filed on 11 August 2006 is defective since it does not comply with 37 CFR 1.497(a)(3). A Declaration, under 37 CFR 1.497(a)(3), must identify each inventor. See MPEP § 602. In this instance, applicants submitted a composite declaration comprising of two sets of declarations, which one is incomplete because each set must be complete by having the correct number of pages and listing all the inventors. In this case only, one set is complete because it comprises of the four (3) pages of the declaration. The other set is incomplete because it appears that page one is missing. Therefore the composite Declaration is incomplete.

Copies of the same page is not part of a proper declaration because it is considered a composite declaration and each must be a complete declaration with the proper statement and the names of each inventor even though each set of declarations may not have all the signatures of the inventors. Therefore, a proper declaration must consist of individual complete sets of declaration that taken as a whole would have all the required signatures as required under 37 CFR 1.497(a)(3).

DECISION

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

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

A proper response, which is a proper translation and the processing fee, must be filed within ONE (1) MONTH from the mail date of this decision or within the time limit in the response set forth in the Notification of Missing Requirements, whichever is longer. The period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).

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11 JUN 2007

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In re Application of	:	DECISION ON
ORLITZKY, Anton., et al	:	
Application No.: 10/563,791	:	
PCT No.: PCT/CA2004/000994	:	
Int. Filing Date: 7 July 2004	:	PETITION UNDER
Priority Date: 7 July 2003	:	
Attorney Docket No.: BFETH-1036832	:	
For: REUSABLE FLUID DISPENSER	:	37 CFR 1.182

This decision is responsive to applicants' "COMMUICATION TO EXAMINER REGARDING DECISION ON A GRANTED PETITION UNDER 37 CFR 1.182" filed on 08 March 2007 requesting the acceptance of the executed declaration.

BACKGROUND

In a decision from this Office on 09 February 2007, the petition was inadvertently granted. The petition should have been dismissed because the declaration submitted was not accepted because it did not comply with 37 CFR 1.497(a) and (b). Applicants had submitted a composite declaration, which was incomplete.

On 08 March 2007 applicants filed a second petition under 37 CFR 1.182, which included a proper executed composite declaration.

DISCUSSION

The declarations filed on 08 March 2007 is a properly executed composite declaration that satisfies the conditions set forth under 37 CFR 1.497(a) and (b).

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The application will be granted a 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date of **08 March 2007.**

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02 OCT 2006

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In re Application of
KOCHER et al.
Application No.: 10/563,793
PCT No.: PCT/US04/21621
Int. Filing Date: 07 July 2004
Priority Date: 16 January 2004
Attorney Docket No.: 44424162-8758-002
For: REPROGRAMMABLE SECURITY FOR CONTROLLING PIRACY AND ENABLING INTERACTIVE CONTENT

DECISION ON REQUEST

UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Petition to Correct Inventorship", filed on 04 August 2006 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to add Nathan J. Lawson as inventor in the above referenced application. The requisite $130 petition fee was paid. The petition is being treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 06 January 2006, 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 17 April 2006, a Notification of Missing Requirements was mailed indicating that an oath or declaration, in compliance 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date, was required.

On 04 August 2006, applicant filed a request to correct the inventorship, to add Nathan J . Lawson as an inventor. In addition to the $130 petition fee, Petitioner provided the statement of Nathan J. Lawson in support of the correction of inventorship under 37 CFR 1.497(d) and a declaration executed by the joint inventors.

DISCUSSION

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

Applicants provided a statement, signed by Nathan J. Lawson, stating that "The

inventorship error of failing to include me as an inventor of this U.S. patent application 10/563,793 occurred without any 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), a review of the application file reveals that an assignment of assignors interest was filed with the USPTO on 11 May 2006. Applicant has provided a Written Consent of Cryptography Research, Inc. (assignee) to correct the inventorship under 37 CFR 1.497(d)(3) consenting to the addition of Nathan J. Lawson as an inventor in this application. Item (3) above has not yet been satisfied.

Accordingly, applicant has met all of the requirements to add Nathan J. Lawson as co-inventor in the above-identified international application.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to add Nathan J. Lawson as 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), (2) and (4) date is **04 August 2006.**

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15 SEP 2008

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In re Application of	:	
Juha RANTALA	:	
Application No.: 10/563801	:	DECISION ON
PCT No.: PCT/FI2004/000440	:	
Int. Filing Date: 08 July 2004	:	PETITION
Priority Date: 08 July 2003	:	
Attorney's Docket No.: LAIN-080	:	UNDER 37 CFR 1.181
For: LOW-K-DIELECTRIC MATERIAL	:	

This decision is in response to the "REQUEST FOR CORRECTED FILING RECEIPT," filed on 01 June 2007, which is being treated as a petition under 37 CFR 1.181 requesting that the 371(c)(1), (c)(2), and (c)(4) date of the above application be corrected to September 20, 2006.

BACKGROUND

On 09 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). However, no executed declaration was filed on such date.

On 02 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 applicants, inter alia, that an "Oath or declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by International application number and international filing date must be submitted within two (2) months from the date of this Notice or 32 months from the priority date of the application. Failure to properly will result in abandoned.

In response to the "NOTIFICATION OF MISSING REQUIREMENTS" mailed on 02 February 2007, applicants filed on 05 March 2007 an executed declaration.

On 10 May 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495" which informed applicants that the 371(c)(1), (c)(2) and (c)(4) and that the date of completion of all 35 U.S.C. 371 is 05 March 2007.

On 01 June 2007, applicants filed this petition indicating that the correct 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) date is 20 September 2006 as evidence by the USPTO stamped postcard.

DISCUSSION

Applicant's present petition accompanied by a copy of the following documents, filed purportedly, *inter alia*, with the PTO as indicated in the stamped postcard:

(1) Declaration
(2) Assignment with Recordation

The postcard lists the above items and bears a USPTO date of stamp as 20 September 2006.

MPEP 503 provides:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that the executed declaration was deposited with the U.S. Patent and Trademark Office on 20 September 2006.

Accordingly, the date of receipt for the Specification is 20 September 2006.

DECISION

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

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on **10 May 2007** is **VACATED** with the mailing of this decision.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **20 September 2006.**

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

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OFFICE OF PETITIONS

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

In re Application of:
Tomoya Kawasaki
Application No. 10/563834
Filing or 371(c) Date: 01/09/2006
Atty. Docket No. 07367.0003

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This letter is in response to "NOTICE OF POSSIBLE ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT AND REQUEST FOR CLARIFICATION OF CALCULATION," filed June 29, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

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 463 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

The Determination of Patent Term Adjustment mailed April 1, 2009 indicated that the above-identified application was entitled to a PTA of 767 days. Applicants indicate that based on applicants' calculation, the patent term adjustment should be 465 days.

The Office errantly calculated an adjustment in accordance with 37 CFR 1.702(a)(1) in connection with the mailing of the non-final Office action on June 16, 2008. The correct period of adjustment is 563 days and it is based upon the 371 fulfillment date, as shown on the Notice of Acceptance of Application Under 35 U.S.C. § 371 and 37 CFR 1.495, mailed April 6, 2006. The "Date of Completion of all 35 U.S.C. 371 Requirements," or the fulfillment date, is January 11, 2006 (the date that is 30 months after the priority date of July 11, 2003). The adjustment commenced the day after the date that is fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371, March 12, 2006, and ended on the date the non-final Office action was mailed, June 13, 2008.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **463 days**, ((463 days of PTO delay, reduced by zero (0) days of applicant delay)), subject to any terminal disclaimer.

Given the basis for granting this petition, no fee has been charged. The Office thanks applicants for their candor and good faith in bringing this matter to the attention of the Office.
The file is being forwarded to the Office of Data Management for processing into a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

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

Enclosure: Updated PAIR Screen

PTA Calculations for Application: 10/563834			
Application Filing Date:	01/09/2006	PTO Delay (PTO):	767
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	463
PTO Delay Adjustment:	-304		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
67	09/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	463		
66	09/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		767	
58	04/01/2009	MAIL NOTICE OF ALLOWANCE			
57	03/28/2009	DOCUMENT VERIFICATION			
56	03/28/2009	ISSUE REVISION COMPLETED			
54	03/28/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	03/27/2009	NOTICE OF ALLOWABILITY			
50	01/29/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
49	01/29/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	02/07/2009	DATE FORWARDED TO EXAMINER			
47	01/29/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
46	02/07/2009	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
45	01/29/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	01/29/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
43	01/08/2009	FINISHED INITIAL DATA CAPTURE			
42	12/08/2008	EXPORT TO INITIAL DATA CAPTURE			
41	12/03/2008	MAIL NOTICE OF ALLOWANCE			
40	11/29/2008	ISSUE REVISION COMPLETED			
39	11/29/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	11/25/2008	DOCUMENT VERIFICATION			
37	11/25/2008	NOTICE OF ALLOWABILITY			
36	11/19/2008	DATE FORWARDED TO EXAMINER			
35	11/13/2008	AMENDMENT AFTER FINAL REJECTION			
34	10/20/2008	MAIL FINAL REJECTION (PTOL - 326)			

33	10/16/2008	FINAL REJECTION			
32	10/08/2008	DATE FORWARDED TO EXAMINER			
31	09/08/2008	RESPONSE AFTER NON-FINAL ACTION			
30	06/16/2008	MAIL NON-FINAL REJECTION	767		5
29	06/13/2008	NON-FINAL REJECTION			
27	01/22/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	04/10/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	08/01/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
19	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
18	10/15/2007	FLAGGED FOR 5/25			
17	10/15/2007	FLAGGED FOR 5/25			
16	08/01/2007	REFERENCE CAPTURE ON IDS			
15	08/01/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	08/01/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13.7	01/22/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	01/22/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	05/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
11	04/20/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10.7	04/10/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	04/10/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	01/11/2006	371 COMPLETION DATE			
4	04/06/2006	APPLICATION DISPATCHED FROM OIPE			
3	04/06/2006	NOTICE OF DO/EO ACCEPTANCE MAILED			
2	01/23/2006	CLEARED BY OIPE CSR			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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OFFICE OF PETITIONS

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

In re Application of :
Thomas Kohler et al :
Application No. 10/563,844 : ON PETITION
Filed: January 5, 2006 :
Attorney Docket No. DE030221 :

This is a decision on the petition, filed July 24, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 16, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2882 will consider the request for continued examination under 37 CFR 1.114.

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

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE WA 98104-7092

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FEB 0 1 2010

In re Application of	:	
Daniel R. Escott.	:	
Application No. 10/563,845	:	DECISION GRANTING PETITION
Filed: January 5, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 853663.425USPC	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 29, 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 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 regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

23 MAY 2007

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COMMISSIONER FOR PATENTS
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Mr. Charles A. Muserlian
Hedman & Costigan P.C.
1185 Avenue of the Americas
New York NY 10036

In re Application of:	:	
Bodo Rorig, et al.		
Application No.: 10/563,850	:	DECISION
PCT Application No.: PCT/EP04/05922	:	
Int. Filing Date: 02 June 2004	:	UNDER
Priority Date: 09 July 2003	:	
Atty Docket No.: 188.607	:	
For: METHOD OF MAKING AN OUTTER LEVER OF	:	37 CFR 1.137(b)
OF A SWITCHABLE FINGER LEVER	:	

This decision is in response to applicants' "PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION" filed 14 December 2006, which has been treated as a petition under 37 C.F.R. 1.137(b).

BACKGROUND

On 02 June 2004, applicant filed international application PCT/EP2004/005922, which designated the U.S. and claimed priority date of 09 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 10 November 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 09 January 2006.

On 05 January 2006, applicants filed a submission for entry into the national stage in the United States, which was accompanied by, *inter alia*, the U.S. Basic National Fee, a declaration and an English translation.

On 12 April 2006, the Office mailed "NOTIFICATION OF MISSING REQUIREMENTS UNDER 37 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia,* the number of claims in the International Application and the number of claims in the translation are not the same.

On 08 May 2006, applicants submitted a response indicating that the English translation of the PCT claims will be supplied if the Patent Office requires it.

On 16 October 2006, the Office mailed "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) indicating, *inter alia,* the number of claims in the International Application and the number of claims in the translation are not the same.

On 14 December 2006, applicants submitted, *inter alia,* a second copy of the English translation, a second copy of the international application and a "PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION".

DISCUSSION

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

Regarding item (1), applicants have provided a bona fide response to the Notification of Missing Requirements.

Regarding item (2), applicants have provided the required petition fee.

Regarding item (3), applicants have provided the required statement.

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

The declaration filed 05 January 2006 does not meet the requirement for acceptance under 37 U.S.C. 371 (c) because the declaration is defective. The declaration executes the specification "attached hereto" and a proper specification was not filed until 14 December 2006.

CONCLUSION

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for mailing a new "NOTIFICATION OF MISSING REQUIREMENTS UNDER 37 U.S.C. 371 (Form PCT/DO/EO/905), requiring a new declaration and the required late fees.

Bena Miller
Detailee PCT Legal Examiner
Office of PCT Legal Administration

Richard Cole
PCT Special Programs Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3281

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/26/10 Paper No.: —

TO SPE OF : ART UNIT 3672

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/563855 Patent No.: 7640932 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

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: _____

DAVID BAGNELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

3672

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

Mail Date: 04/21/2010

Applicant	: Marco Daher	: DECISION ON REQUEST FOR
Patent Number	: 7618360	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/563,860	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/09/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

Mail Date: 04/21/2010

Applicant	: Marco Daher	: DECISION ON REQUEST FOR
Patent Number	: 7618360	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/563,860	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/09/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of :
Matti Lahtinen :
Application Number: 10/563911 : DECISION ON PETITION
Filing Date: 01/10/2006 :
Attorney Docket Number: 1503-0187PUS1 :

This is a decision on the petition filed on December 31, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on September 30, 2006, for failure to submit a timely response to the non-final Office action mailed on June 29, 2006, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on January 24, 2007.

Receipt of the amendment in response to the non-final Office action is acknowledged.

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

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

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

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

The application is being referred to Technology Center 2875 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

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

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OFFICE OF PETITIONS

In re Application of :
Sato et al. :
Application No. 10/563,916 : ON APPLICATION FOR
Filed: January 10, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. 0020-5461PUS1 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b) filed on March 16, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is two hundred sixty-eight (268) days, not ninety-seven (97) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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 address in the application for patent term adjustment is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address in the

---

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.

subject application for patent term adjustment. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

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

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

/Alesia Brown/

Anthony Knight
Supervisor
Office of Petitions

Cc:

BIRCH STEWART KOLASCH & BIRCH, LLP
12770 HIGH BLUFF DRIVE, SUITE 260
SAN DIEGO CA 92130

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Paper No.

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

MAILED

MAR 15 2010

OFFICE OF PETITIONS

In re Patent No. 7,601,801	: DECISION ON REQUEST
Sato et al.	: FOR
Issue Date: October 13, 2009	: RECONSIDERATION OF
Application No. 10/563,916	: PATENT TERM ADJUSTMENT
Filed: January 10, 2006	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
0020-5461PUS1	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 14, 2009,[1] 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 seventy-three (373) 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 seventy-three (373) 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 seventy-three (373)** days.

[1] As December 13, 2009 fell on a Sunday, the petition filed on Monday, December 14, 2009 is timely filed. See 37 CFR 1.7(a).

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

cc: BIRCH STEWART KOLASCH & BIRCH LLP
12770 HIGH BLUFF DR, STE. 260
SAN DIEGO CA 92130

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,601,801 B2

DATED : **October 13, 2009** **DRAFT**

INVENTOR(S) : Sato 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 186 days

Delete the phrase "by 186 days" and insert – by 373 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OMORI & YAGUCHI USA, LLC
8 PENN CENTER
1628 JOHN F. KENNEDY BLVD
SUITE 1300
PHILADELPHIA, PA 19103

MAILED

FEB 0 9 2009

OFFICE OF PETITIONS

In re Application of :
Thorsten Bendel :
Application No. 10/563,949 : ON PETITION
Filed: May 11, 2006 :
Attorney Docket No. Y05Y013 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 14, 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 January 8, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is April 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 a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3673 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

12 MAR 2009

United States Patent and Trademark Office

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

In re Application of :
Kremer et al. :
Application No. 10/563,956 :
Filing Date: 10 January 2006 :
Atty. Docket No.: 18724.009 : DECISION
For: Autologous Self-Tolerance Inducing :
Cells Of Monocytic Origin And Their :
Use In Pharmaceutical Preparations :

This is in response to the correspondence filed on 10 June 2008, which is a copy of correspondence filed on 15 September 2006.

BACKGROUND

International application PCT/EP2004/000109 was filed on 09 January 2004, claimed an earlier priority date of 11 July 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 30 January 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 11 January 2006. Applicants filed, *inter alia*, a basic national fee on 10 January 2006.

On 16 May 2006, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to counsel, indicating a 35 U.S.C. 371(c)(1), (2) and (4) date of "01/10/2006." A filing receipt was mailed on the same date.

On 20 June 2006, applicants filed a "Request For Corrected Filing Receipt" requesting the addition of data pertaining to U.S. application 10/520,931 and German application 102 31655.4.

On 29 August 2006, a filing receipt was mailed to applicants, showing German application 102 31655.4 under "Foreign Applications."

DISCUSSION

Counsel requests correction of the filing receipt to reflect a domestic priority claim to 10/520,931. Review of the record reveals that the correspondence filed on 10 January 2006 included a preliminary amendment to the specification which, *inter alia*, added a reference to 10/520,931. Further inspection of this preliminary amendment reveals that it states that "This national phase application is a continuation application of International Application No. PCT/EP2004/00109..." Thus, the preliminary amendment characterized this application both as a "national phase" and as a "continuation" of PCT/EP2004/000109. *See* MPEP 1895, 201.11(a).

The USPTO has adopted a bright-line test for determining whether application papers will be processed under 35 U.S.C. 371 or alternatively under 35 U.S.C. 111(a). Under this standard, any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> To clearly indicate an international application is being filed under 35 U.S.C. 371 the applicant should use the "Transmittal Letter for United States Designated Office" (Form PTO-1390) as the transmittal letter.
>
> Alternatively, one of the following indications may be used:
>
> 1) the applicant shall clearly state in the transmittal or cover letter that he or she is filing under 35 U.S.C. 371 or entering the national stage under PCT; or
>
> 2) the applicant clearly identifies in the oath or declaration the specification to which it is directed by referring to a particular international application by PCT Serial Number and International Filing Date and that he or she is executing the declaration as, and seeking a U.S. Patent as, the inventor of the invention described in the identified international application.

If there are any conflicting instructions as to which section of the statute (371 or 111(a)) is intended the application will be accepted under 35 U.S.C. 111(a).

Inspection of the correspondence filed on 10 January 2006 reveals that the Transmittal Letter indicated that treatment as the national stage under 35 U.S.C. 371 of PCT/EP2004/000109 was desired. However, as noted above, the preliminary amendment filed on 10 January 2006 referred to this application as a "continuation application" of PCT/EP2004/000109, implying that treatment under 35 U.S.C. 111(a) was desired. *See* MPEP 1895, 201.11(a).

These indicia constitute conflicting instructions as to whether processing under 35 U.S.C. 371 rather than U.S.C. 111(a) was desired. Under the policy referenced above, this application properly should have been processed under 35 U.S.C. 111(a). Since applicants have not shown sufficient cause (e.g., loss of rights) or lack of availability of an alternative remedy, it would be appropriate, and consistent with the policy considerations described above, to process this application under 35 U.S.C. 111(a).

The Notice of Acceptance (Form PCT/DO/EO/903) mailed on 16 May 2006 is hereby **VACATED**.

DECISION

The request is **ACCEPTED**, to the extent noted herein.

This application will be returned to the Office of Patent Application Processing for processing as an application filed under 35 U.S.C. 111(a). This processing will include (1) the removal from the application file of the documents transmitted by the International Bureau to the U.S. Designated/Elected Office (DO/EO/US); (2) the correction of the electronic records of the USPTO to show the correct status as an application filed under 35 U.S.C. 111(a) and to accurately reflect the priority claims made in the application; and (3) in due course, the issuance of a corrected filing receipt reflecting, *inter alia*, the reference to 10/520,931.

No response to this Decision is required. In the event that applicants wish to file a response, any such response must be filed within **TWO (2) MONTHS** of the mailing date of this decision, extendable under 37 CFR 1.136(a).

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

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

26 JUN 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

In re Application of ZIMMERMANN et al	:	
U.S. Application No.: 10/563,990	:	
PCT Application No.: PCT/DE01/00678	:	DECISION
Int. Filing Date: 22 February 2001	:	
Priority Date Claimed: 08 March 2000	:	
Attorney Docket No.: 10191/2040	:	
For: OBJECT DETECTION SYSTEM	:	

This is in response to applicant's "Petition Under 37 C.F.R. 1.182" filed 16 December 2005.

BACKGROUND

On 22 February 2001, applicant filed international application PCT/DE01/00678, which claimed priority of an earlier Germany application filed 08 March 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 13 September 2001. The twenty-month period for paying the basic national fee in the United States expired on 08 November 2001.

On 08 November 2001, applicant filed purported national stage papers in the DO/EO/US. The submission included a Transmittal Letter (Form PTO-1390) which referenced international application PCT/DE01/00162.

On 16 December 2006, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The petition states that the Transmittal Letter filed 08 November 2001 referenced international application number PCT/DE01/00162 by mistake due to an inadvertent clerical error. A review of the papers filed on 08 November 2001 reveals that the submission was otherwise consistent with international application number PCT/DE01/00678. Applicant's explanation for the error is accepted.

CONCLUSION

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

The national stage papers filed 08 November 2001 have been assigned U.S. Application Number 10/563,990.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

PATENT
10191/2040

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	Uwe ZIMMERMANN et al.
Serial No.	:	09/980,978
Receipt Date	:	November 8, 2001
For	:	OBJECT DETECTION SYSTEM

Mail Stop PCT Legal Administration - Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA. 22313-1450

RECEIVED
6 JAN 2005
Legal Staff
International Division

PETITION UNDER 37 CFR 1.181

SIR:

The above-noted application was filed at the PCT Branch of the U.S. Patent Office on November 8, 2001. A copy of the postcard bearing the PTO date stamp of November 8, 2001 is attached hereto.

During a review of pending applications, it was noted that a Missing Requirements was never received for this application and thus prompted a series of telephone calls to the PCT Help Desk. Each telephone discussion uncovered that this application could not be found.

Also, in checking the Pair System, it is noted that this application has not been examined nor moved since January 3, 2002.

We hereby petition to the Director that this application be located or a reconstruction of the file be initiated.

The instant application was filed without a Declaration and Power of Attorney. To complete the filing requirements, we are enclosing the signed Declaration and Power of Attorney and request that the surcharge of $130.00 be charged to Kenyon & Kenyon, Deposit Account No. 11-0600.

EV323020457US

No fee is believed to be due for this Petition, but the Commissioner is hereby authorized to charge any necessary fees or credit any overpayment in connection with this paper to Deposit Account No. 11-0600. A copy of this petition is enclosed for that purpose.

Respectfully submitted,

Dated: 12/30/04 By: [signature] Reg No 35,952

Richard L. Mayer, Reg. No. 22,490

KENYON & KENYON
One Broadway
New York, New York 10004
Telephone: (212) 425-7200
Facsimile: (212) 425-5288
Customer No. 26646

910518-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	Uwe ZIMMERMANN et al.
PCT Appln. No.	:	PCT/DE01/00678
PCT Filing Date	:	February 22, 2001
U.S. Serial No.	:	09/980,978
Receipt Date	:	November 8, 2001
For	:	OBJECT DETECTION SYSTEM

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P. O. Box 1450
Alexandria, VA. 22313-1450

PETITION UNDER 37 C.F.R. 1.182 (& RESPONSE TO DECISION ON "PETITION UNDER 37 C.F.R. 1.181" FILED ON DECEMBER 30, 2004)

SIR:

In response to the Decision (mailed on August 16, 2005) on "Petition Under 37 C.F.R. 1.181" (filed on December 30, 2004), and pursuant to the telephone discussion with Brian Tung of the PCT Legal Department, Applicants submit this Petition under 37 C.F.R. 1.182 to correct the PCT International Application Number for the above-identified U.S. national stage application: on Form PTO 1390 submitted on November 8, 2001 for the above-identified U.S. national stage application, Applicants erroneously listed the PCT application no. "PCT/DE01/00162," instead of the correct PCT application no. PCT/DE01/00678. This typographical mistake was an inadvertent clerical error. We are enclosing herewith a corrected Form PTO-1390, which lists the correct PCT Application No. PCT/DE01/00678.

In view of the corrected Form PTO 1390 listing the correct PCT Application No. PCT/DE01/00678, Applicants submit that U.S. Application No. 09/980,978 should be properly attributed to the U.S. national stage application filing corresponding to PCT Application No. PCT/DE01/00678.

Express Mail No. EV 320194710 US

The Commissioner is hereby authorized to charge any necessary fees, including a two-month extension fee of $450 and a petition fee of $130 under 37 C.F.R. 1.17(h), or credit any overpayment in connection with this paper, to Deposit Account No. 11-0600. A copy of this petition is enclosed for that purpose.

Respectfully submitted,

KENYON & KENYON

(R. No. 36,197)

Dated: December 16, 2005

By: JONG LEE for Richard Mayer

Richard L. Mayer (Reg. No. 22,490)
One Broadway
New York, New York 10004
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KENYON & KENYON
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NEW YORK, NY 10004

In re Application of WINTER et al	:	
U.S. Application No.: 09/980,978	:	
PCT Application No.: PCT/DE01/00162	:	DECISION
Int. Filing Date: 17 January 2001	:	
Priority Date Claimed: 17 February 2000	:	
Attorney Docket No.: 10191/2040	:	
For: OBJECT DETECTION SYSTEM	:	

This is in response to applicant's "Petition Under 37 CFR 1.181" filed 30 December 2004.

BACKGROUND

On 17 January 2001, applicant filed international application PCT/DE01/00162, which claimed priority of an earlier Germany application filed 17 February 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 23 August 2001. The twenty-month period for paying the basic national fee in the United States expired on 17 October 2001.

On 17 October 2001, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and was assigned U.S. Application Number 09/959,145.

On 08 November 2001, applicant filed another set of national stage papers in the DO/EO/US. The submission included a Transmittal Letter (Form PTO-1390) which referenced international application PCT/DE01/00162.

On 28 March 2002, the DO/EO/US mailed a Notice of Cancellation of Assigned Serial Number (Form PCT/DO/EO/908)[1]

On 30 December 2004, applicant filed the present petition under 37 CFR 1.181, which requests the Office to locate or reconstruct U.S. Application Number 09/980,978.

[1] A copy of the Notice of Cancellation of Assigned Serial Number is attached to this decision.

DISCUSSION

The end result for an international application designating the United States is a single U.S. national stage application. Therefore, the submission of two sets of national stage papers for the same international application was improper. Thus, the cancellation of U.S. Application Number 09/980,978 and the mailing of the Notice of Cancellation of Assigned Serial Number was appropriate.

CONCLUSION

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

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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05 JAN 2007

Kenyon & Kenyon, LLP
One Broadway
New York, New York 10004

In re Application of
MARCHTHALER et al.
Application No.: 10/563,992
PCT No.: PCT/DE04/01628
Int. Filing Date: 22 July 2004
Priority Date: 04 August 2003
Attorney Docket No.: 10191/4331
For: ANTIGLARE SYSTEM FOR A VEHICLE

COMMUNICATION
&
NOTIFICATION OF
ABANDONMENT

This communication is in response to applicants' "Response to 'Notification of Defective Response' to Missing Requirements under 35 U.S.C. 371" filed 16 November 2006.

BACKGROUND

On 22 July 2004, applicants filed international application PCT/DE04/01628 which claimed a priority date of 04 August 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 February 2005. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 04 February 2006.

On 09 January 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); the international application; and a preliminary amendment.

On 04 May 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 31 May 2006, applicants filed a declaration executed by: Reiner Marchthaler; Hans-Dieter Bothe; Hoang Trinh; Heiko Freienstein; Thomas Engelberg; and Matthias Wellhoefer.

On 16 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration filed 31 May 2006 was defective because it indicated additional inventors (Reiner Marchthaler and Matthias Wellhoefer) not listed on the published international application.

On 16 November 2006, applicants filed the present "Response to 'Notification of Defective Response' to Missing Requirements under 35 U.S.C. 371."

DISCUSSION

The 16 November 2006 communication is not a proper reply to the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 04 May 2006. Applicants state in the communication that, "Reiner Marchthaler and Matthias Wellhoefer are proper joint inventors of the present application claimed in the above-identified application, and the omission of Reiner Marchthaler and Matthias Wellhoefer was an error in the International Application." In this case, a proper response must include a petition under 37 CFR 1.497(d), if the International Bureau has not recorded a change under PCT Rule 92bis. A petition under 37 CFR 1.497(d) 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; (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees; and (4) any new oath or declaration required by paragraph (f) of this subsection. Applicants have not filed the response required by the Code of Federal Regulations. Specifically, no petition or fee, no statement from each person being added as an inventor regarding the error in inventorship, and no consent of assignee have been provided. Because the failure to file the proper response does not appear to have been the result of an inadvertent omission (37 CFR 1.135(a)), applicants will not be accorded a new time period to correct the deficiencies in the response. Accordingly, the application is hereby held to be **abandoned**.

CONCLUSION

For the reasons discussed above, this application is **ABANDONED**.

Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

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.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
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UNITED STATES PATENT AND TRADEMARK OFFICE

19 FEB 2008

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Kenyon & Kenyon, LLP
One Broadway
New York, New York 10004

In re Application of
MARCHTHALER et al.
Application No.: 10/563,992
PCT No.: PCT/DE04/01628
Int. Filing Date: 22 July 2004
Priority Date: 04 August 2003
Attorney Docket No.: 10191/4331
For: ANTIGLARE SYSTEM FOR A VEHICLE

DECISION ON PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b) AND PETITION UNDER 37 CFR 1.497(d) TO CORRECT INVENTORSHIP

This decision is issued in response to applicants' "Petition For Revival under 1.497(d) or 37 CFR 1.137(b)" filed 10 December 2007.

BACKGROUND

On 22 July 2004, applicants filed international application PCT/DE04/01628 which claimed a priority date of 04 August 2003. The published international application identified four applicant/inventors for the United States: Hans-Dieter Bothe; Hoang Trinh; Heiko Freienstein; and Thomas Engelberg. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 February 2005. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 04 February 2006.

On 09 January 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); the international application; and a preliminary amendment.

On 04 May 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 31 May 2006, applicants filed a declaration executed by: Reiner Marchthaler; Hans-Dieter Bothe; Hoang Trinh; Heiko Freienstein; Thomas Engelberg; and Matthias Wellhoefer.

On 16 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration filed 31 May 2006 was defective because it indicated additional inventors (Reiner Marchthaler and Matthias Wellhoefer) not listed on the published international application.

On 16 November 2006, applicants filed a "Response to 'Notification of Defective Response' to Missing Requirements under 35 U.S.C. 371."

On 05 January 2007, the Office of PCT Legal Administration mailed "Communication & Notification of Abandonment" indicating that the above-identified application was abandoned for failure to file a proper response to the Notification of Missing Requirements mailed 04 May 2006.

On 26 February 2007, the United States Elected Office mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 04 May 2006 within the time period set therein.

On 10 December 2007, applicants filed the present petition under 37 CFR 1.137(b) and 37 CFR 1.497(d).

DISCUSSION

1. Petition under 37 CFR 1.137(b)

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional delay 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 respect to item (1), the "required reply" in the present circumstances is a proper response to the Notification Of Missing Requirements mailed 04 May 2006, that is, a declaration in compliance with 37 CFR 1.497 and the required surcharge under 37 CFR 1.492(h). The surcharge under 37 CFR 1.492(h) has been charged to Deposit Account No. 11-0600. The remaining element of the "required reply" is an oath or declaration in compliance with 37 CFR 1.497. In an attempt to satisfy this requirement, applicants have submitted a petition under 37 CFR 1.497(d) requesting to add inventors, Reiner Marchthaler and Matthias Wellhoefer, to the present application. As discussed in detail below, the petition under 37 CFR 1.497(d) is grantable. The declaration submitted on 31 May 2006 is now acceptable under 37 CFR.1.497(a)-(b). Item (1) is therefore satisfied.

With respect to item (2), applicants have submitted the required petition fee. Item (2) is therefore satisfied

With regard to Item (3), 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" and the prompt filing of the petition 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.

Applicants have therefore satisfied all the requirements for a grantable petition under 37 CFR 1.137(b). The Petition For Revival is granted.

2. Petition Under 37 CFR 1.497(d)

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).

37 CFR 1.497(d) states:

> (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' 10 December 2007 submission satisfies the requirements of 37 CFR 1.497(d). Applicants have submitted statements from both the added inventors in compliance with 37 CFR 1.497(d)(1). The authorization contained in the 10 December 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.

Accordingly, applicants have satisfied all the requirements for correction of inventorship under 37 CFR 1.497(d).

CONCLUSION

Applicants' petition for revival under 37 CFR 1.137(b) is **GRANTED**.

Applicants' request to correct inventorship under 37 CFR 1.497(d) is **GRANTED**.

Reiner Marchthaler and Matthias Wellhoefer have been is added as an inventor herein.

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 35 U.S.C. 371 date is **31 May 2006**.

Anthony Smith

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
NOV 19 2008

In re Application of :
BORMAN, Richard A. et al. :
Application No. 10/564,010 : DECISION ON PETITION
Filed: January 11, 2006 : TO WITHDRAW
Attorney Docket No. **BJS-620-410** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 15, 2008.

The request is **APPROVED**.

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

The request was signed by B. J. Sadoff on behalf of all attorneys of record who are associated with customer No. 23117. 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 Richard A. Borman at the address indicated below.

There is an outstanding Office action mailed October 31, 2008 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **RICHARD A. BORMAN**
45 HUDDLESTON WAY, SAWSTON
CAMBRIDGE, CAMBRIDGESHIRE
SAWSTON, CB2 4SW
UNITED KINGDOM

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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BRINKS HOFER GILSON & LIONE
ANN ARBOR
524 South Main Street, Suite 200
Ann Arbor, MI 48104

MAILED

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OFFICE OF PETITIONS

In re Application of	:	
Robert Anthony Borman, et al.	:	
Application No. 10/564,010	:	DECISION ON PETITION
Filed: January 11, 2006	:	TO WITHDRAW
Attorney Docket No. 224822-To Be Determined	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 29, 2009.

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

A review of the file record indicates that the power of attorney to Brinks Hofer Gilson & Lione has been revoked by the assignee of the patent application on August 7, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **HONIGMAN MILLER SCHWARTZ & COHN LLP**
444 West Michigan Avenue
Kalamazoo, MI 49007-3714

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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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 04/27/2010

Applicant	: Daniel Mullette	: DECISION ON REQUEST FOR
Patent Number	: 7662212	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/564,024	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/09/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

IAP6 Rec'd PCT/PTO 12 JUN 2006

Docket No.: 4799-010 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	
	)	
Noriaki IZUMI	)	Confirmation No.4011
	)	
U.S. Patent Application No. 10/564,032	)	
	)	
Filed: January 10, 2006	)	

For: METHOD OF INFORMATION PROCESSING, PROGRAM OF INFORMATION PROCESSING, INFORMATION PROCESSING APPARATUS, AND REMOTE CONTROLLER

RESPONSE TO NOTICE OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Dear Sir:

In response to the Notice of Missing Parts of Application dated April 11, 2006, submitted herewith are the following documents for filing in the above-referenced application:

1. Declaration and Power of Attorney (which is in compliance with 37 CFR 1.497(a) and (b))

2. Late Filing Fee Surcharge of **$130.00** (for providing the Oath or Declaration later than 30 months from the priority date).

Please find enclosed a Credit Card Charge Form in the amount of **$130.00** to cover the filing fee. To the extent necessary, Applicants petition for an extension of time under 37 C.F.R. 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayments to Deposit Account 07-1337.

Respectfully submitted,

LOWE HAUPTMAN & BERNER, LLP

06/15/2006 GFREY1 00000123 10564032
01 FC:1617 130.00 OP

Benjamin J. Hauptman
Registration No. 29,310

Customer No. 22429
1700 Diagonal Road, Suite 310
Alexandria, Virginia 22314
(703) 684-1111 BJH/klf
Facsimile: (703) 518-5499
Date: **June 12, 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.
10/564,032	Noriaki Izumi	4799-010

INTERNATIONAL APPLICATION NO.	
PCT/JP04/09923	
I.A. FILING DATE	PRIORITY DATE
12/07/2004	07/12/2004

22429
LOWE HAUPTMAN GILMAN AND BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300 /310
ALEXANDRIA, VA 22314

DOCKETED BY:
DUE DATE: 6-11-06
MISSING PARTS

CONFIRMATION NO. 4011

371 FORMALITIES LETTER

OC000000018503743

Date Mailed: 04/11/2006

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 01/10/2006
- English Translation of the IA filed on 01/10/2006
- Copy of the International Search Report filed on 01/10/2006
- Preliminary Amendments filed on 01/10/2006
- Information Disclosure Statements filed on 01/10/2006
- Copy of references cited in ISR filed on 01/10/2006
- U.S. Basic National Fees filed on 01/10/2006
- Priority Documents filed on 01/10/2006

RECEIVED

-? 13 2006

Lowe, Hauptman, & Berner

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.

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.*

MAMIE P PERSON

Telephone: (703) 308-9140 EXT 227

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/564,032	PCT/JP04/09923	4799-010

FORM PCT/DO/EO/905 (371 Formalities Notice)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

10 APR 2007

Christian D. Abel
Onsagers As
Postboks 6963 St. Olavs Plass
Oslo N0130
Norway

In re Application of	:	
Fromreide et al.	:	
Serial No.: 10/564,035	:	DECISION ON
PCT No.: PCT/NO02/00236	:	PETITION
Int. Filing Date: 27 June 2002	:	UNDER 37 CFR 1.137(b)
Priority Date: 28 June 2001	:	
Attorney's Docket No.: 115852	:	
For: AIR CLEANING DEVICE I	:	

This decision is responsive to the "PETITION FOR REVIVIAL OF AN APPLICATION ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)" filed 23 May 2005.

BACKGROUND

On 27 June 2002, applicants filed international application PCT/NO02/00236, which claimed priority of an earlier Norwegian application filed 28 June 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 09 January 2003. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 29 December 2003 (28 December 2003 being a Sunday).

On filing of the application, applicant provided an authorization to charge the fees to the deposit account. On 08 December 2004, when the United States Patent and Trademark Office attempted to charge the Basic National Fee, there were insufficient funds in the deposit account.

On 25 May 2005, applicant filed the current petition.

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

With respect to element (1), applicants have provided the required statement. With respect to element (2), applicants provided a proper response in that applicants provided authorization to charge the deposit account to pay the basic national fee on 23 May 2005. With respect to element (3) applicants paid the petition fee on 23 May 2005. 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 ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) showing a 35 U.S.C. 371 date of **23 February 2005**.

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

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Commissioner for Patents
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APR 26 2010

OFFICE OF PETITIONS

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

In re Patent of Sakamoto et al.	:	DECISION ON REQUEST
Patent No. 7,608,130	:	FOR RECONSIDERATION OF
Issue Date: October 27, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/564,061	:	and
Filed: January 10, 2006	:	NOTICE OF INTENT TO ISSUE
Atty. Docket No. 281994US0PCT	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 15, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred fifty-seven (657) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred fifty-seven (657) days is **GRANTED**.

The fee set forth in 37 CFR 1.18(e) is $200.00. Patentees have paid $130.00. The balance will be charged to patentees' deposit account. No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred fifty-seven (657)** days.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,608,130 B2

DATED : **October 27, 2009** **DRAFT**

INVENTOR(S) : Sakamoto 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 368 days

Delete the phrase "by 368 days" and insert – by 657 days--

14 NOV 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Purdue Law Office
2735 N. Holland-Sylvania Road
Suite B-2
Toledo, HO 43615

In re Application of :
MAZZIOTTI, Philip :
Application No.: 10/564,072 : DECISION ON SUBMISSION OF
PCT No.: PCT/US04/21916 : DECLARATION EXECUTED BY
Int. Filing Date: 09 July 2004 : GUARDIAN
Priority Date: 10 July 2003 :
Attorney Docket No.: 479.0004 :
For: JOINT SEAL

This decision is issued in response to the 03 July 2006 submission of a declaration executed on behalf of inventor Philip J. Mazziotti by his guardian, Michelle Mazziotti. No petition fee is required.

BACKGROUND

On 09 July 2004, applicant filed international application PCT/US04/21916, which claimed a priority date of 10 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 27 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, 10 January 2006.

On 10 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and an application data sheet.

On 01 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 03 July 2006, applicant filed a declaration executed by Michele Mazziotti on behalf of sole inventor, Philip J. Mazziotti.

DISCUSSION

As noted above, applicant has filed a declaration executed on behalf of the inventor by his guardian. A declaration executed on behalf of an inventor by his/her guardian may be accepted only if the application falls within the scope of 37 CFR § 1.42 or 37 CFR § 1.43.

37 CFR § 1.42 states:

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

37 CFR § states:

> In case an inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Here, applicant has not indicated which of the above provisions the declaration filed 03 July 2006 is submitted under.

Before the declaration can be accepted, applicant must provide a statement indicating that the non-signing inventor, Philip J. Mazziotti is either deceased (37 CFR § 1.42) or "insane or otherwise legally incapacitated" (37 CFR § 1.43). Further, the "Letter of Guardianship" was not included with the present papers. If neither of these regulations applies to the circumstances present here, then a declaration in compliance with 37 CFR 1.497 executed by Philip J. Mazziotti is required.

CONCLUSION

For the above reasons, the declaration filed 03 July 2006 on behalf of applicant/inventor Philip J. Mazziotti is **REFUSED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mail date of the present decision to submit a proper response. Such response should include either: (1) a statement confirming that non-signing inventor Philip J. Mazziotti is either deceased or "insane or otherwise legally incapacitated;" or (2) an oath or declaration in compliance with 37 CFR 1.497 executed by Philip J. Mazziotti.

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

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

with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 703-308-6314
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

14 AUG 2007

Purdue Law Office
2735 N. Holland-Sylvania Road
Suite B-2
Toledo, OH 43615-1844

In re Application of
MAZZIOTTI, Philip
Application No.: 10/564,072
PCT No.: PCT/US04/21916
Int. Filing Date: 09 July 2004
Priority Date: 10 July 2003
Attorney Docket No.: 479.0004
For: JOINT SEAL

DECISION ON
PAPERS UNDER 37 CFR 1.43

This decision is issued in reply to applicant's "Response to Decision on Submission of Declaration Executed by Guardian" filed 11 December 2006 which is being treated as a request under 37 CFR 1.43. No petition fee is required.

BACKGROUND

On 09 July 2004, applicant filed international application PCT/US04/21916, which claimed a priority date of 10 July 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 10 January 2006.

On 10 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and an application data sheet.

On 01 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 03 July 2006, applicant filed a declaration executed by Michele Mazziotti on behalf of sole inventor, Philip J. Mazziotti.

On 14 November 2006, the Office of PCT Legal Administration mailed "Decision on Submission of Declaration Executed by Guardian" requesting the status of sole inventor, Philip J. Mazziotti.

On 11 December 2006, applicant filed "Response to Decision on Submission of Declaration Executed by Guardian."

DISCUSSION

35 U.S.C. 117 *Death or Incapacity of Inventor*, states:

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

37 CFR 1.43 *When the Inventor is insane or legally incapacitated*, states, in part:

> In case of the death of the 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 declaration submitted on 03 July 2006 was executed by Michele Mazziotti as "guardian" for the incapacitated inventor, Philip J. Mazziotti. The declaration is acceptable under 37 CFR 1.43 and complies with 37 CFR 1.497(a)-(b).

CONCLUSION

The papers filed under 37 CFR 1.43 are **ACCEPTED**.

The application has an international filing date of 09 July 2004, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **03 July 2006**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

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
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7 FEB 2006

David E. Bruhn
DORSEY & WHITNEY LLP
Intellectual Property Department
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402-1498

In re Application of :
HEINIGER, Hanspeter *et al* :
U.S. Application No.: 10/564,115 :
PCT No.: PCT/EP2004/006221 :
Int. Filing Date: 09 June 2004 :
Priority Date: 13 June 2003 :
Attorney Docket No.: 187443/US :
For: DRIVE DEVICE AND METHOD FOR ADVANCING AN ADVANCING ELEMENT :

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 10 January 2006 is hereby **GRANTED** as follows:

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

A signed oath or declaration was not included with any of the papers submitted.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

27 FEB 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

Philip S Johnson
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick NJ 08933-7003

In re Application of	:	
TWOMEY, Richard et al.	:	
Application No.: 10/564,130	:	DECISION
PCT No.: PCT/GB03/05324	:	
Int. Filing Date: 05 December 2003	:	ON PETITION UNDER
Priority Date: 07 December 2002	:	
Docket No.: DEP5008	:	37 CFR 1.137(b)
For: A BONE CEMENT PLUG	:	

Applicants' "Petition For Revival of an International Application For Patent Designating the United States Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 12 January 2006 is **GRANTED**.

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

A signed oath or declaration has not yet been submitted. The fee for late filing of the search fee, examination fee or oath or declaration will be charged to deposit account no. 10-0750, as authorized.

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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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HUNTSMAN ADVANCED MATERIALS AMERICAS INC.
10003 Woodloch Forest Drive
The Woodlands TX 77380

MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Application of
Matthew Cleaver
Application No. 10/564,149
Filed: January 10, 2006
Attorney Docket No. HAM830023

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 28, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provision of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 29, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1791 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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HELLER ENRMAN LLP
1717 RHODE ISLAND AVENUE NW
WASHINGTON, DC 20036-3001

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of :
BUCHSTALLER, et al. :
Application No. 10/564,185 : DECISION ON PETITION
Filed: August 7, 2006 : TO WITHDRAW
Attorney Docket No. 24945-0026US : FROM RECORD
:

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

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

A review of the file record indicates that the power of attorney to Patricia Granados of HELLER ENRMAN LLP has been revoked by the assignee of the patent application on December 19, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BAKER & DANIEL LLP**
805 15TH STREET NW, SUITE 700
WASHINGTON, DC 20005

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ORGANON USA, INC.
C/O SCHERING-PLOUGH CORPORATION
2000 GALLOPING HILL ROAD
MAIL STOP: K-6-1, 1990
KENILWORTH, NJ 07033

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JAN 14 2009

OFFICE OF PETITIONS

In re Application of :
Johannes Hubertus Wieringa, et al. :
Application No. 10/564,193 : DECISION ON PETITION
Filed: January 6, 2006 :
Attorney Docket No. 2003.796US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 8, 2008, 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 25, 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 September 26, 2008.

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

The petition is **GRANTED**.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on October 8, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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 October 8, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

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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: 05/06/2010

Applicant	: Hans-Joachim Beck	: DECISION ON REQUEST FOR
Patent Number	: 7653521	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/564,210	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/09/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **423** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

10/564215
IAP20 Rec'd PCT/PTO 06 JAN 2006

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MAY 13 2005
OFFICE OF PETITIONS

DUNLAP, CODDING & ROGERS, P.C.
P.O. BOX 16370
OKLAHOMA CITY, OK 73113

In re Application of:
Hermkens et al.
Application No. 10/887,484
Filed: July 8, 2004
Title of Invention:
METHOD FOR MANUFACTURING A SEQUENTIAL BACKPLANE

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to a Petition Under 37 CFR 1.47, filed April 18, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Peter J.M. Thoolen, refuses to join in the application.

As provided in Rule 1.47(a), this 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 will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

DUNLAP, CODDING & ROGERS, P.C.
MAY 16 2005

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

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DEC 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Schetters, Cornelis Johannes Adrianus	:	
Application No. 10/564,232	:	DECISION ON PETITION
Filed: January 10, 2006	:	
Attorney Docket No. NL03 0854 US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 8, 2007, 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 the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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DAVID G. HENRY
418 RIVERVIEW DRIVE
WOODWAY TX 76712

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JUL 24 2008

In re Application of :
MCDONALD :
Application No. 10/564,242 : ON PETITION
Filed: September 11, 2006 :
Attorney Docket No. Garlic – 1 US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 9, 2007, to revive the above-identified application. The requisite petition fee has been submitted.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 15, 2006, 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 at mid-night on February 15, 2007.

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) above, the required reply.

Petitioner sets forth, under item 2 of the present petition, that "[t]he reply and/or fee to the above-noted Office action in the form of Amendment and Remarks" (1) "has been filed previously on 3/15/07 (NOT REC'D/PROCESSED)" and (2) "is enclosed herewith". The United States Patent and Trademark Office (USPTO) has no record of the "Amendment and Remarks" petitioner

urges were previously filed on March 15, 2007. USPTO records also indicate that the present petition was not accompanied by an enclosed "Amendment and Remarks".

Any request for reconsideration of this decision, should be accompanied by evidence that sufficiently establishes, to the satisfaction of the Director, that a response to the November 15, 2006 non-final Office action was, in fact, filed with the USPTO on March 15, 2007 or (2) that an "Amendment and Response" to the November 15, 2006 non-final Office action accompanied the present petition on October 9, 2007. Evidence that sufficiently establishes that an "Amendment and Response" was filed on March 13, 2007 and/or with the present petition on October 10, 2007, should include a date stamped and properly itemized postcard receipt, a complete copy of the previously submitted "Amendment and Response", and a statement that the attached copy of the "Amendment and Response" is a copy of the "Amendment and Response" previously filed with the USPTO.

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 Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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DAVID G. HENRY
418 RIVERVIEW DRIVE
WOODWAY TX 76712

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DEC 10 2008

In re Application of	:	
Robert McDonald	:	
Application No. 10/564,242	:	DECISION ON PETITION
Filed: September 11, 2006	:	
Attorney Docket No. Garlic-1 US	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 23, 2008, to revive the above-identified application.

The renewed petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1655 for appropriate action by the Examiner in the normal course of business on the amendment filed October 9, 2007.

Andrea Smith
Petitions Examiner
Office of Petitions

06 NOV 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
www.uspto.gov

IMCLON
Lerner, David, Littenberg, Krumholz & Mentlik, LLP
600 South Avenue West
Westfield, NJ 07090

In re Application of	:	
CHEN, et al.	:	DECISION ON PETITION
Serial No.: 10/564,267	:	
PCT No.: PCT/US04/22226	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 09 July 2004	:	
Priority Date: 09 July 2003	:	
Atty Docket No.: 11245/49902	:	
For: HETEROCYCLIC COMPOUNDS AND THEIR USE AS ANTICANCER AGENTS	:	

This decision is in response to the petition under 37 CFR 1.47(a) filed 29 September 2008 and supplemented on 10 October 2008 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor Hai-Ying He.

BACKGROUND

On 09 July 2004, applicant filed international application PCT/US04/22226 which claimed priority to a previous application filed 09 July 2003. Pursuant to 37 CFR 1.495, the 30 month deadline for entering the United States National stage was set to expire at midnight on 09 January 2006.

On 09 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 21 November 2007, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors was required, as well as, payment of the $130.00 surcharge for providing an executed oath or declaration later than thirty months from the earliest claimed priority date. Applicant was afforded two months to file a proper response.

On 18 April 2008, applicant filed a response accompanied by a petition for a three-month extension of time and payment of the extension of time fee.

On 25 August 2008, applicant was mailed a "Notification of Defective Response" (Form PCT/DO/EO/916) indicating that the filed declaration was defective and affording applicant one month to respond.

On 29 September 2008, applicant filed the petition under 37 CFR 1.47(a) discussed herein. The response included certification under 37 CFR 1.8 that the filing had been deposited as a first class mailing on 25 September 2008 is therefore considered timely filed.

On 10 October 2008, applicant filed a supplemental response including a declaration signed by inventor Hai-Ying He.

DISCUSSION

A review of the papers filed on 28 September 2008 find that they were a bona fide response to the Form PCT/DO/EO/916 mailed 25 August 2008. As of 10 October 2008, applicant has provided a signed declaration from each of the nine listed inventors. As such, the petition under 37 CFR1.47(a) is dismissed as moot.

CONCLUSION

As applicant has filed a declaration signed by inventor Hai-Ying He the petition under 37 CFR 1.47(a) is **DISMISSED as moot**.

As shown in the "Notification of Acceptance" (Form PCT/DO/EO/903) mailed 29 October 2008, this application has an international filing date of 09 July 2004 and a date of 10 October 2008 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

28 FEB 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Klehr Harrison Harvey Branzburg & Ellers
260 S Borad Street
Philadelphia PA 19102

In re Application of	:	
BRAIMAN, Michael	:	
Application No.: 10/564,270	:	DECISION
PCT No.: PCT/IL04/00413	:	
Int. Filing Date: 14 May 2004	:	ON PETITION UNDER
Priority Date: 14 May 2003	:	
Docket No.: 10064-0011	:	37 CFR 1.137(b)
For: TRACKING SYSTEM USING OPTICAL TAGS	:	

Applicants' "Petition For Revival of an International Application For Patent Designating the United States Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 04 January 2006 is **GRANTED**.

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

Applicant has supplied a declaration in compliance with 37 CFR 1.497(a)-(b). The search fee, examination fee and fee for late filing of the search fee, examination fee or oath or declaration will be charged to deposit account no. 50-1555, as authorized. The examination fee for a utility application will be adjusted against the required national stage fees.

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 04 January 2006 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4).

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

United States Patent and Trademark Office

17 MAR 2006

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Liane L. Churney
Flynn, Thiel, Boutell & Tanis, P.C.
2026 Rambling Road
Kalamazoo, MI 49008-1631

In re Application of	:	
McKellar	:	
Application No.: 10/564,306	:	DECISION
PCT No.: PCT/GB04/02593	:	
Int. Filing Date: 16 June 2004	:	ON
Priority Date: 17 June 2003	:	
Attorney Docket No.: 3700.P0407US	:	PETITION
For: Texturing 3-Dimensional Computer Graphic Images	:	

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

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

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the payment of the surcharge under 37 CFR 1.492(h) and the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

17 DEC 2008

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Beck and Tysver P.L.L.C.
2900 Thomas Avenue South
Suite 100
Minneapolis, MN 55416

In re Application of
DESINGER et al.
Application No.: 10/564,322
Filed: June 26, 2006
Attorney Docket No.: 3444
For: SURGICAL PROBE

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 23, 2008 to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional and international applications set forth in the amendment filed concurrently with the instant petition.

The petition is DISMISSED.

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

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

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

The instant petition does not comply with item (1) and (3).

An amendment adding a reference to the prior-filed nonprovisional and international applications to the first sentence of the specification following the title has been included in a concurrently filed amendment. However, the amendment fails to state the relationship of USSN 10/806,867 filed March 23, 2004 and U.S. Pat No. 6,723,094 issued April 20, 2004 to the instant application. (See 37 CFR 1.78(a)(2)(i)) The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. Furthermore, the benefit claim is not proper since it identifies the Patent number (U.S. Pat No. 6,723,094), instead of the U.S. serial number (USSN 09/868,303). An example of a proper benefit claim is: "This application is a continuation of application No. ---, filed---." A benefit claim that merely states: "This application claims the benefit of application No. ---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. See MPEP Section 201.11, Reference to Prior Application.

As to item (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 is required. Here, applicant states "[t]he entire delay between the date the claim was due under 37 CFR.1.78(d)(4) and today was unintentional." Applicant's statement refers to 37 CFR 1.78(d)(4), not 37 CFR 1.78(a)(2)(iii). Therefore, a new statement is required.

Therefore, before the petition under 37 CFR § 1.78(a)(3) and (a)(6) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required. Additionally, 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 is required.

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

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

By hand:
Customer Service Window
Mail Stop PCT
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: PCT

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

Boris Milef
Legal Examiner
PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

10 AUG 2009

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Beck and Tysver P.L.L.C.
2900 Thomas Avenue South
Suite 100
Minneapolis, MN 55416

In re Application of
DESINGER et al.
Application No.: 10/564,322
Filed: June 26, 2006
Attorney Docket No.: 3444
For: SURGICAL PROBE

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 27, 2009 to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional and international applications set forth in the amendment filed concurrently with the instant petition.

The petition is DISMISSED.

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

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

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

The instant petition does not comply with item (1) and (3).

An amendment adding a reference to the prior-filed nonprovisional and international applications to the first sentence of the specification following the title has been included in a concurrently filed amendment. However, the benefit claim is not proper since it identifies a Patent number (U.S. Pat No. 6,723,094), instead of the U.S. serial number (USSN 09/868,303).

As to item (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 is required. Here, applicant states "[T]he Entire delay between the date the claim was due under 37 CFR.1.78(d)(4) and the date the claim was filed was unintentional." Applicant's statement refers to 37 CFR 1.78(d)(4), not 37 CFR 1.78(a)(2)(iii). Therefore, a new statement is required.

Therefore, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required. Additionally, 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 is required.

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

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

By hand:
Customer Service Window
Mail Stop PCT
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: PCT

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

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

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

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JAN 15 2010

In re Application of	:	
Domschke et al.	:	DECISION ON PETITION
Application No. 10/564,323	:	TO WITHDRAW
Filed: August 3, 2006	:	FROM RECORD
Attorney Docket No. 085449-0191	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 24, 2009.

The request is **APPROVED**.

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

The request was signed by Michele Simkin on behalf of all attorneys of record who are associated with customer No. 22428.

All attorneys/agents associated with the Customer Number 22428 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

The correspondence address of record remains unchanged.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, there is 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: Michele Simkin
Washington Harbour
3000 K Street NW, Suite 600
Washington, D.C. 20007-5109

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

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AUG 2 5 2008

OFFICE OF PETITIONS

In re Application of :
HAYES, Thomas J. :
Application No. 10/564,341 : DECISION ON PETITION
Filed: January 24, 2006 : TO WITHDRAW
Attorney Docket No. **480052001000** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 23, 2008.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the applicant of the patent application on May 16, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **RUTAN & TUCKER, LLP.**
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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	: Daniel Mark Hutchinson	: DECISION ON REQUEST FOR
Patent Number	: 7602448	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/564,345	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/11/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **781** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

28 FEB 2006

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Gary M. Nath
Nath & Associates, PLLC
112 South West Street
Alexandria, VA 22314

In re Application of	:	
COHEN	:	DECISION ON PETITION
Serial No.: 10/564,357	:	
PCT No.: PCT/IL04/00584	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 01 July 2004	:	
Priority Date: 15 July 2003	:	
Atty Docket No.: 26886U	:	
For: ROTARY SPRINKLER WITH REDUCED WEAR	:	

This decision is in response to the "Petition Under 37 CFR 1.47(b) For Filing When an Inventor Refuses to Sign" filed 12 January 2006.

BACKGROUND

On 01 July 2004, applicant filed international application PCT/IL04/00584 which claimed priority to a previous application filed 15 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 27 January 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 15 January 2006.

On 12 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an Information Disclosure Statement; an assignment document for recording and the petition under 37 CFR 1.47(b) considered herein.

DISCUSSION

I. Transmittal Letter Filed 12 January 2006

Applicant is advised that the "Transmittal Letter to The United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371" filed 12 January 2006 identifies the international application number as PCT/IL2004/000548. It appears from the bibliographic information provided that applicant intends to file a U.S. National stage entry for international application PCT/IL2004/000584. In order for the present papers to be considered a U.S. National stage entry under 35 U.S.C. 371 applicant is advised to file a petition under 37 CFR 1.182 asking that the international application number be corrected.

II. Petition Under 37 CFR 1.47(b)

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); (3); (5) and (6).

Regarding item (1), applicant is advised that the current petition fee for proceeding pursuant to 37 CFR 1.47 is $200.00. The additional $70.00 required will be charged to deposit account number 14-0112 as authorized in the filed transmittal letter.

As to item (2), as stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature." 409.03(d) also states that:

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.

Applicant has not provided a statement from attorney Pugatsch confirming that a complete set of application papers was sent to Mr. Cohen and detailing the telephone conversation of 06 June 2005 in which Mr. Cohen allegedly promised to execute the new declaration.

Regarding items (4) and (5), applicant has not shown proof of proprietary interest in the application. (See MPEP section 409.03(f)). Applicant's present petition references a document signed by Mr. Erez Zimhoni executed on behalf of the corporate assignee and on behalf of the non-signing inventor, Mr. Cohen, however, a review of the papers filed 12 January 2006 does not find said document. Applicant is reminded that a compliant oath or declaration

under 37 CFR 1.497 (a)-(b) is required.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

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

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

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

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

16 JUN 2006

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Gary M. Nath
Nath & Associates, PLLC
112 South West Street
Alexandria, VA 22314

In re Application of	:	
COHEN	:	DECISION ON RENEWED
Serial No.: 10/564,357	:	
PCT No.: PCT/IL04/00584	:	PETITION UNDER
Int. Filing Date: 01 July 2004	:	
Priority Date: 15 July 2003	:	37 CFR 1.47(b) AND
Atty Docket No.: 26886U	:	
For: ROTARY SPRINKLER WITH REDUCED WEAR	:	37 CFR 1.182

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.47(b)" and "Petition Under 37 1.182 to Correct International Application Number" filed 27 April 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 February 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 Boaz Cohen. In addition applicant was informed that the filed transmittal letter identified the international application number as PCT/IL2004/000548 whereas the corresponding information provided indicated that applicant intended to file a U.S. National stage entry for international application PCT/IL2004/000584. Applicant was afforded two months to file a renewed petition under 37 CFR 1.47(b) and a petition under 37 CFr 1.182 as to the PCT number listed on the transmittal letter.

On 27 April 2006, applicant filed the renewed petition under 37 CFR 1.47(b) and the petition under 37 CFR 1.182 discussed herein.

DISCUSSION

I. Petition Under 37 CFR 1.182

The identifying information provided on the transmittal letter filed by applicant on 12 January 2006, i.e., the title, applicant-inventor information, priority date, and international filing date all correspond to that of PCT/IL04/00584. For these reasons, as well as the explanation provided in the present petition, it has been concluded that the national stage papers filed 12

January 2006 sufficiently identify international application PCT/IL04/00584. Pursuant to petitioner's request, the national stage papers assigned U.S. application number 10/564,357 will be treated as a U.S. national stage submission for PCT/IL04/00584.

It is noted that applicant provided payment of $200.00 for the petition fee. Pursuant to 37 CFR 1.17(f) the petition fee for a petition submitted under 37 CFR 1.182 is $400.00. The additional $200.00 will be charged to deposit account number 14-0112 as authorized.

II. Renewed Petition Under 37 CFR 1.47(b)

As detailed in the decision mailed 28 February 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); (3); and (6).

Applicant has presently provided a statement from attorney Pugatsch confirming that a complete set of application papers was sent to Mr. Cohen and detailing the telephone conversations counsel had with Mr. Cohen in which the inventor confirmed receipt of the application papers and promised to execute the new declaration. The statement shows that Mr. Cohen has yet to return a signed declaration. Thus, applicant has satisfied item 2.

As to item (5), a review of the file finds an assignment document executed by the inventor. In addition, applicant has currently provided a statement executed by Mr. Erez Zimhoni on behalf of the corporate assignee. Therefore, item (5) has been satisfied.

Regarding item (4), applicant has not provided a compliant oath or declaration. The declaration signed by inventor Cohen, as well as the copy submitted with the original papers of 12 January 2006 did not contain the requisite language under section 1001 of title 18 of the United States Code. Similarly, the statement signed by Mr. Zimhoni is not a declaration as to the invention, but merely a statement of proprietary interest.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is **GRANTED**.

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
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26 OCT 2006

Gary M. Nath
Nath & Associates, PLLC
112 South West Street
Alexandria, VA 22314

In re Application of	:	
COHEN	:	DECISION ON RENEWED
Serial No.: 10/564,357	:	
PCT No.: PCT/IL04/00584	:	PETITION UNDER
Int. Filing Date: 01 July 2004	:	
Priority Date: 15 July 2003	:	37 CFR 1.47(b)
Atty Docket No.: 26886U	:	
For: ROTARY SPRINKLER WITH REDUCED WEAR	:	

This decision is in response to applicant's renewed petition under 37 CFR 1.47(b) filed 16 August 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 16 June 2006, applicant was mailed a decision dismissing applicant's renewed petition under 37 CFR 1.47(b) to accept the application without the signature of inventor Boaz Cohen. Applicant was afforded two months to file a renewed petition.

On 16 August 2006, applicant filed the renewed petition under 37 CFR 1.47(b) discussed herein.

DISCUSSION

As detailed in the decision mailed 16 June 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)-(3) and (5)-(6).

Applicant has presently provided a compliant declaration executed by Koby Millo on behalf of the non-signing inventor and the corporate assignee. The declaration details the relationship of the signing individual to the non-signing inventor and therefore satisfies the provisions of 37 CFR 1.497 (a)-(b). As such, it is proper to grant applicant's renewed petition at this time.

CONCLUSION

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

The application has an international filing date of 01 July 2004 under 35 U.S.C. 363, and will be given a date of **16 August 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded 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

31 JAN 2007
United States Patent and Trademark Office

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BERENATO, WHITE & STAVISH, LLC
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA, MD 20817

In re Application of	:	
Lhote et al.	:	
Application No.: 10/564,366	:	DECISION
PCT No.: PCT/CA04/02080	:	
Int. Filing Date: 06 December 2004	:	ON
Priority Date: 16 December 2003	:	
Attorney Docket No.: 6222.480	:	PETITION
For: Apparatus And Method For Pressure Relief In An Exhaust Brake	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 10 July 2006.

BACKGROUND

This international application was filed on 06 December 2004, claimed an earlier priority date of 16 December 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 30 June 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 16 June 2006. Applicants filed *inter alia* the basic national fee on 12 January 2006.

On 11 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 compliant with 37 CFR 1.497(a) and (b), indicating that the "signature of the first inventor is missing Mr. Andre F. Lhote from the declaration filed."

DISCUSSION

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

Regarding requirement (1), petitioner indicates that "the requisite fee is attached hereto," but payment of the $200.00 petition fee is not currently reflected in the electronic records of the USPTO. Therefore, the petition fee is being charged to counsel's Deposit Account No. 50-0548, as authorized by the petition.

Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor Andre Lhote be excused because he allegedly refused to sign the declaration. Counsel's attention is respectfully drawn to MPEP 409.03(d), which states in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal. When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition

In support of the proposition that Mr. Lhote has refused to execute the declaration, counsel has provided evidence including a "Declaration of William C. Schrot..." Atty. Schrot refers to attached copies of letters sent to Mr. Lhote on 30 May 2006, 21 June 2006 and 05 July 2006, each of which indicates that a declaration and copy of the application are being sent and each of which requests execution and return of the declaration. However, it is not clear which (if any) of these letters were sent to Mr. Lhote's "last known address," in view of (1) the absence of an explicit statement of Mr. Lhote's last known address, and (2) the indication that the address on one parcel was corrected to 4992 Byrne Rd. Clarification as to whether any of the letters were sent to Mr. Lhote's "last known address" is required. Atty. Schrot also refers to Exhibit H, a copy of an e-mail from Ryan Marander to Joe Berenato indicating that

> We have now had a response from Andre Lhote regarding a copy of a declaration for his signature as co-inventor for Pacbrake's Pressure Relief Brake US patent application. This is your reference number 6222.480. Andre returned the express package you originally sent to him on May 30, 2006 and gave it to Cathy Hailey,

Pacbrake's purchasing manager. When Andre Lhote handed the package to Cathy his words were, "I can't sign this."

As stated in the excerpt from MPEP 409.03(d) *supra*, "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." In view of this practice, a statement from Cathy Hailey would be appropriate. For all of the reasons described, it would not be appropriate to conclude at this time that Andre Lhote has "refused" to execute the application within the meaning of 37 CFR 1.47(a); as such, requirement (2) has not been satisfied.

Regarding requirement (3), the petition does not appear to include an explicit statement of the last known address of Mr. Lhote. Though the "Declaration of William C. Schrot..." refers to a "corrected address," the petition does not clearly indicate whether this address, or some other address, is the "last known address." Accordingly, requirement (3) has not been satisfied.

Regarding requirement (4), the declaration filed on 12 January 2006 has been signed by joint inventors Vincent Meneely, Gabriel Gavril, Tamara Spence and John Hartley on behalf of themselves and non-signing joint inventor Andre Lhote. This declaration is acceptable for purposes of compliance with 37 CFR 1.47(a) and 37 CFR 1.497(a) and (b). Therefore, requirement (4) has been satisfied.

DECISION

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

The $200.00 petition fee is being charged to counsel's Deposit Account No. 50-0548.

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

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

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

01/31/2007 SBASHEIR 00000001 500548 10564366
Sale Ref: 00000001 DA#: 500548 10564366
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BERENATO, WHITE & STAVISH, LLC
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA, MD 20817

14 MAY 2007

In re Application of	:	
Lhote et al.	:	
Application No.: 10/564,366	:	DECISION
PCT No.: PCT/CA04/02080	:	
Int. Filing Date: 06 December 2004	:	ON
Priority Date: 16 December 2003	:	
Attorney Docket No.: 6222.480	:	PETITION
For: Apparatus And Method For Pressure Relief In An Exhaust Brake	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 26 March 2007.

DISCUSSION

In a Decision mailed on 31 January 2007, the petition under 37 CFR 1.47(a) filed on 10 July 2006 was dismissed without prejudice because

> Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor Andre Lhote be excused because he allegedly refused to sign the declaration. Counsel's attention is respectfully drawn to MPEP 409.03(d)...
>
> In support of the proposition that Mr. Lhote has refused to execute the declaration, counsel has provided evidence including a "Declaration of William C. Schrot..." Atty. Schrot refers to attached copies of letters sent to Mr. Lhote on 30 May 2006, 21 June 2006 and 05 July 2006, each of which indicates that a declaration and copy of the application are being sent and each of which requests execution and return of the declaration. However, it is not clear which (if any) of these letters were sent to Mr. Lhote's "last known address," in view of (1) the absence of an explicit statement of Mr. Lhote's last known address, and (2) the indication that the address on one parcel was corrected to 4992 Byrne Rd. Clarification as to whether any of the letters were sent to Mr. Lhote's "last known address" is required. Atty. Schrot also refers to Exhibit H, a copy of an e-mail from Ryan Marander to Joe Berenato indicating that
>
> We have now had a response from Andre Lhote regarding a copy of a declaration for his signature as co-inventor for Pacbrake's Pressure Relief Brake US patent application. This is your reference number 6222.480. Andre returned the express package you originally sent to him on May 30, 2006 and gave it to Cathy Hailey, Pacbrake's purchasing manager. When Andre Lhote handed the package to Cathy his words were, "I can't sign this."

As stated in the excerpt from MPEP 409.03(d) *supra*, "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." In view of this practice, a statement from Cathy Hailey would be appropriate. For all of the reasons described, it would not be appropriate to conclude at this time that Andre Lhote has "refused" to execute the application within the meaning of 37 CFR 1.47(a); as such, requirement (2) has not been satisfied.

Regarding requirement (3), the petition does not appear to include an explicit statement of the last known address of Mr. Lhote. Though the "Declaration of William C. Schrot..." refers to a "corrected address," the petition does not clearly indicate whether this address, or some other address, is the "last known address." Accordingly, requirement (3) has not been satisfied.

Regarding **requirement (2)**, the evidence of record (including that presented with the instant renewed petition) is sufficient to establish that Mr. Lhote has refused to execute the application within the meaning of 37 CFR 1.47(a).

Regarding **requirement (3)**, petitioner has provided an explicit statement of Mr. Lhote's last-known address.

DECISION

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

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

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

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **12 January 2006**.

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

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0 8 NOV 2006

Dickstein Shapiro LLP
1825 Eye Street, NW
Washington, D.C. 20006-5403

In re Application of
MINATO et al.
Application No.: 10/564,392
PCT No.: PCT/JP04/10055
Int. Filing Date: 14 July 2004
Priority Date: None
Attorney Docket No.: 03020.0375/P375
For: OBJECT DECISION DEVICE AND IMAGING DEVICE

: DECISION ON REQUEST

This decision is issued in response to applicants' "Petition under 37 CFR 1.182 to Change Inventor's Name" dated 28 August 2006. Applicants are requesting to change the name of the first inventor from Yoshihisa Ijiri to Yoshihisa Minato due to marriage. The petition was accompanied by an affidavit signed by Yoshihisa Minato using both her former name and present name. The $400 petition fee under 37 CFR 1.17(f) has been charged to counsel's Deposit Account, as authorized.

DISCUSSION

The Manual of Patent Examining Procedure at § 605.04(c) requires 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 (1) the appropriate petition fee and (2) an affidavit signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order. The petition has been reviewed and is approved. The declaration submitted on 06 June 2005 is accepted.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Yoshihisa Ijiri to Yoshihisa Minato is **GRANTED**. This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

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

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

Mail Date: 04/21/2010

Applicant	: Jae-Hoon Tae	: DECISION ON REQUEST FOR
Patent Number	: 7589603	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/564,396	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **158** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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	: Clint Alan Ecoff	: DECISION ON REQUEST FOR
Patent Number	: 7599009	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/564,428	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/11/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **759** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Patent No. : 7,392587 B2
Serial No. : 10/564,442
Inventor(s) : Hasegawa
Issued : July 1, 2008
Title : **HANDLE FOR SCISSORS**
Docket No. : **36-007-TN**

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**

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

ecw

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POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

MAILED

OCT 22 2009

OFFICE OF PETITIONS

In re Application of :
Katsumi Hasegawa :
Application No. 10/564,442 : DECISION ON PETITION
Filed: January 12, 2006 :
Attorney Docket No. 36-007-TN :

This is a decision on the petition, filed, March 31, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is KAI R&D CENTER CO., LTD., Gifu-ken, Japan and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

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.

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that KAI R&D CENTER CO., LTD., Gifu-ken, Japan is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the April M. Wise at (571) 272-1642. 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 after issuance of this application into a patent.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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

Mail Date: 04/21/2010

Applicant	: Dirk Soenksen	: DECISION ON REQUEST FOR
Patent Number	: 7623698	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/564,454	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/10/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **815** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Alexandria, VA 22313-1450
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7 FEB 2006

THE WEBB LAW FIRM
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1845

In re Application of
VAN OPHOVEN
U.S. Application No.: 10/564,455
PCT No.: PCT/NL2004/000369
Int. Filing Date: 24 May 2004
Priority Date: 22 May 2003
Attorney Docket No.: 3135-053640
For: BUILDING ELEMENT, CONNECTOR, FALL-ABSORBING BASE AND A KIT OF PARTS FOR CONSTRUCTING A PLAY APPARATUS

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

Applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 12 January 2006 is hereby **GRANTED** as follows:

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

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

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 24 May 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 12 January 2006.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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United States Patent and Trademark Office
P.O. Box 1450
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Robert A. Seldon
Seldon & Scillieri
18th Floor
10940 Wilshire Boulevard
Los Angeles, CA 90024

COPY MAILED

OCT 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Lawrence J. Abler :
Application No. 10/564,457 : DECISION ON PETITION
Filed: January 11, 2006 : TO WITHDRAW
Attorney Docket No. ASH-QUICK-US : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 2, 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 reason set forth in the request, "termination of the attorney/client relationship," does not meet any of the conditions set forth in 37 CFR 10.40.

A courtesy copy of this decision is being mailed to applicant.

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

There are no pending Office actions at this time.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Lawrence J. Abler
4702 152 2nd Place SE
Bellvue, WA 98006

cc: Law Office of Robert M. Ashen
1737 Franklin Canyon Drive
Beverly Hills, CA 90210

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,458	01/12/2006	Annaliesa S. Anderson	21569YP	7338

210 7590 01/29/2010

MERCK AND CO., INC
P O BOX 2000
RAHWAY, NJ 07065-0907

EXAMINER	
DEVI, SARVAMANGALA J N	
ART UNIT	**PAPER NUMBER**
1645	
MAIL DATE	**DELIVERY MODE**
01/29/2010	PAPER

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

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

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JAN 2 9 2010

MERCK AND CO., INC
P O BOX 2000
RAHWAY NJ 07065-0907

In re Application of:	:
Anderson et al.	:
Serial No.: 10/564,458	: PETITION DECISION
Filed: January 12, 2006	:
Attorney Docket No.: **21569YP**	:

This is in response to the petition filed December 22, 2009 and the revised petition filed January 5, 2010 under 37 CFR § 1.181, requesting that the finality of the Office action of November 24, 2009 be withdrawn as premature.

BACKGROUND

The examiner mailed a non-final Office action on December 15, 2008 setting a three month statutory limit for reply. In this action, claims 1-10, 17, 18, 20-25, 27, 29 and 33-46 were pending and claims 1-9 and 33-46 were rejected. Claims 10, 17, 18, 20, 21, 24, 25, 27 and 29 were withdrawn from consideration. Claims 1 and 7 and claims 2-6 and 33-36 that depend therefrom were rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Claims 1-9 and 33-46 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1-13 and 16-18 were rejected under 35 USC 103 (a) as being unpatentable over Foster et al. in view of Christensen et al.

On March 13, 2009, applicants submitted amendments and remarks addressing the rejections set forth in the Office action of December 15, 2008. Claims 47 – 54 were also newly added.

On July 7, 2009, a Notice of Non-Compliant Amendment was issued.

On July 134, 2009, applicants submitted a revised amendment in response to the Notice of Non-Compliant Amendment.

On November 24, 2009, the examiner mailed a final Office action setting a three month statutory limit for reply. In this action, the examiner rejected claims 1-9 and 33-54. Claims 1, 3, 4, 7-9,

33-35, 37-44, 47, 49-51 and 53 were rejected under 35 U.S.C. 112, first paragraph, as lacking written description. Claims 1, 3-9 and 33-54 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

In response thereto, applicants filed a petition on December 22, 2009 under 37 CFR § 1.181, requesting that the finality of the Office action of November 24, 2009 be withdrawn as premature.

On December 21, 2009, the examiner had a telephonic interview with applicants.

In response to the telephonic interview, applicants filed a revised petition on January 5, 2010 under 37 CFR § 1.181, requesting that the finality of the Office action of November 24, 2009 be withdrawn as premature.

DISCUSSION

The petitions and the file history have been carefully considered.

In the petition filed on January 5, 2010, applicants argue "The November 24, 2009 office action was improperly made final. The November 24, 2009 office action for the first time in the prosecution of the present application provided a written description rejection. The percent identity and number of possible alterations language, upon which the written description rejection was based, was present in claims pending prior to the December 15, 2008 non-final office action. The amendments provided in the response to December 15, 2008 did not necessitate the written description rejection."

Applicants' argument has been carefully considered but it is not persuasive that the final was improper. As explained by the examiner in the interview summary mailed December 21, 2009, the amendment filed July 13, 2009 added many new claims and made **significant** and **scope-changing** amendments to almost all examined claims, particularly to claims 1, 3, 5, 7, 8 and 37-46.

Also, due to a number of indefiniteness, ambiguity, and claim language issues as set forth, a reasonable analysis under 35 USC 112, first paragraph, was not possible in the non-final Office action. Note the following few examples:

Example # 1. The open claim language 'comprising' in the original claim 1 being combined with the negative limitation 'one or more additional polypeptide regions .... do not provide a carboxyl terminus .....', when evaluated with the language 'consists essentially of SEQ ID NO: 1' in the dependent claim 5, rendered the scope as well as the metes and bounds of the originally examined claims so indefinite or ambiguous, a sensible analysis under 35 USC 112, first paragraph was not possible. This is because, the specification at lines 14-19 of page 13 expressly defines the limitation 'consisting essentially of' as referring to amino acids being present at the carboxyl or the amino terminus. Note that the base claim 1 excludes carboxyl terminal amino acids 609-645 of SEQ 2, whereas the "consisting essentially" of language in the dependent claim 5 permits the presence of such carboxyl terminal amino acids. These opposing claim languages

rendered the structural composition of the claimed polypeptide and the scope of the claims so confusing that a reasonable analysis under 35 USC 112, first paragraph, was not possible in non-final Office action of December 15, 2008.

Both claims 1 and 5 were amended extensively (and also the dependent claims 3, 4, 8 and 33-46) in the amendment of July 13, 2009, thus eliminating the major indefiniteness issues and now also required the polypeptide immunogen to be 'purified'. These significant amendments eliminated the combined use of the confusing open and closed claim languages, provided some clarity to the structural composition of the claimed product, and made an analysis under 35 USC 112, first paragraph possible only in the second office action. Making such an office action Final is proper.

Example # 2. Although Applicants' petition does not cite/reproduce the amended claim 3, claim 3, originally dependent from claim 2, has been amended extensively, both in terms of scope and dependency. Claim 3, as amended, now depends from claim 1, which itself has been extensively amended as explained above.

Example # 3. The original claim 8, then dependent from claim 1, lacked any recitation or clarity as to the immunospecificity of the broadly recited 'a protective immune response'. Claim 8 was extensively amended including an amendment reciting the specificity of the immune response as now being 'against *S. aureus'* and requiring the polypeptide immunogen now to be 'purified'. Claim 8 was also amended to be an independent claim. The amendments to claim 8 made an analysis under 35 USC 112, first paragraph possible only in the final office action.

Example # 4. The independent claim 7, as rejected in the non-final Office action, included the confusing combination of both the open claim language 'immunogen comprising' and the closed claim language 'immunogen consists of'. This opposing claim language rendered the structural composition of the claimed immunogen and the scope of the claim so confusing that a reasonable analysis under 35 USC 112, first paragraph, was not possible in the non-final Office action. The amendment to claim 7 fixed this problem, provided some clarity to the structural composition of the claimed product, and made an analysis under 35 USC 112, first paragraph possible only in the second office action. Making such an office action Final is proper.

Applicants' arguments have been carefully considered but they are not persuasive as it appears that the new ground of rejection in the final Office action is, in fact, necessitated by amendment.

The following excerpt from MPEP § 706.07 is set forth below:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

The examiner's rejection of the claims under 35 U.S.C. 112, first paragraph, as lacking written description was a new rejection considering that the examiner did not originally institute said rejection in the non-final Office action. While new rejections are permitted in final Office actions, such new rejections are only proper under certain circumstances according to the

provisions set forth in the MPEP; those provisions being, either when applicants' amendment to the claims necessitates such a rejection or when an IDS submitted by applicants necessitates such a rejection, see MPEP citation (*Id.*) In the instant case, the claim amendments of July 13, 2009 did alter the scope of the claims requiring a new rejection. In view of the evidence, the final Office action issued November 24, 2009 is not found to be premature nor in error. Consequently, the finality of the Office action will not be withdrawn in favor of applicants.

DECISION

The petition is **DENIED.**

Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Remy Yucel
Director, Technology Center 1600

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JUL 0 1 2008

OFFICE OF PETITIONS

Applicant: Flores et al.
Appl. No.: 10/564,466
International Filing Date: July 19, 2004
Title: REVERSIBLY MMERTALISED OLFACTORY ENSHEATING GLIA AND THEIR USE TO PROMOTE NEURON REGENERATION
Attorney Docket No.: 14829-003US FUSP 188389
Pub. No.: US 2007/0134213 A1
Pub. Date: June 14, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 12, 2007, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the application wherein six of the inventors were omitted.

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

The omission of an inventor's name and residence do not affect the understanding of the application. The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

[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).

On March 15, 2007, a Filing Receipt was mailed by the Office, which improperly listed the inventive entity. To avoid this type of problem in the future, applicants' representative should review the Filing Receipt and make a request for a Corrected Filing Receipt.

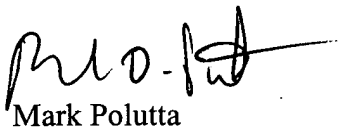
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the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

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

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

By facsimile: 571-273-8300

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



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

15 DEC 2006

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BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

In re Application of DALY et al :
U.S. Application No.: 10/564,468 :
PCT Application No.: PCT/GB2004/003061 : DECISION
Int. Filing Date: 14 July 2004 :
Priority Date Claimed: 15 July 2003 :
Attorney Docket No.: 124593.00101 :
For: SPRAY APPARATUS :

This is in response to applicant's "Response to Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" filed 22 November 2006, which is being treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 14 July 2004, applicant filed international application PCT/GB2004/003061, which claimed priority of an earlier United Kingdom application filed 15 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 27 January 2005. The thirty-month period for paying the basic national fee in the United States expired on 15 January 2006.

On 13 January 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 May 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 22 November 2006, applicant filed an executed declaration along with the present petition under 37 CFR 1.497(d).

DISCUSSION

37 CFR 1.497(d) (effective 07 November 2000) states,

> If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the

> international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in 37 CFR 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see §3.73(b) of this chapter).

With regard to item (1) above, the requisite statement has been provided.

With regard to item (2) above, the requisite processing fee will be charged to Deposit Account No. 23-2185 as authorized in the petition.

With regard to item (3) above, the petition fails to state whether an assignment has been executed by any of the original inventors. If such an assignment exists, written consent of the assignee must be provided, and proof of ownership of the assignee must be established. See 37 CFR 3.73(b).

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)". No additional petition fee is required.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

07 FEB 2007

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BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

In re Application of DALY et al	:	
U.S. Application No.: 10/564,468	:	
PCT Application No.: PCT/GB2004/003061	:	DECISION
Int. Filing Date: 14 July 2004	:	
Priority Date Claimed: 15 July 2003	:	
Attorney Docket No.: 124593.00101	:	
For: SPRAY APPARATUS	:	

This is in response to applicant's "Response to Decision on Petition Under 37 CFR 1.497(d)" filed 08 January 2007.

BACKGROUND

On 14 July 2004, applicant filed international application PCT/GB2004/003061, which claimed priority of an earlier United Kingdom application filed 15 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 27 January 2005. The thirty-month period for paying the basic national fee in the United States expired on 15 January 2006.

On 13 January 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 May 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 22 November 2006, applicant filed an executed declaration along with a petition under 37 CFR 1.497(d).

On 15 December 2006, this Office mailed a decision dismissing the 22 November 2006 petition.

On 08 January 2007, applicant filed the present renewed petition under 37 CFR 1.497(d).

DISCUSSION

37 CFR 1.497(d) (effective 07 November 2000) states,

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

Applicant has previously satisfied items (1) and (2) above.

With regard to item (3) above, the renewed petition states that no assignment has been executed by any of the original inventors.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.497(d) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 14 July 2004, and a date under 35 U.S.C. 371(c) of 22 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

31 JUL 2006

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Robert G. Mukai
Buchanan Ingersoll, PC
P.O. Box 1404
Alexandria, VA 22313-1404

In re Application of	:	
HEIMALA, et al.	:	DECISION ON PETITION
Application No.: 10/564,477	:	
PCT No.: PCT/FI04/00451	:	UNDER 37 CFR 1.181
Int. Filing Date: 14 July 2004	:	
Priority Date: 17 July 2003	:	
Atty. Docket No.: 1034281-000003	:	
For: METHOD FOR PRODUCING CONCENTRATES	:	

This decision is in response to applicant's "Petition Under 37 C.F.R. §1.181 to Vacate Notice of Missing Requirements Under 35 U.S.C. §371" filed 10 July 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 14 July 2004, applicant filed international application PCT/DE01/03535 which claimed priority to an earlier application filed 17 July 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 17 January 2006.

On 13 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1), an English translation of the international application, a copy of the declaration filed with the international application, an Information Disclosure Statement, an assignment for recording and a first preliminary amendment.

On 10 May 2006, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide 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. In addition, applicant was notified of the need to provide a surcharge of $130.00 for filing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority 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 10 July 2006, applicant filed the present petition to vacate the Form PCT/DO/EO/905 indicating that the executed declaration was filed with the PCT Request form on 14 July 2004.

DISCUSSION

The USPTO has received confirmation from the International Bureau (IB) that the subject declaration was filed with the PCT Request form and therefore is valid for the purposes of entering the National stage in the United States as the international application identifies the application to which it is directed.

CONCLUSION

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

The Form PCT/DO/EO/905 mailed 10 May 2006 is hereby **VACATED**.

The application will be given an international filing date of 14 July 2004 under 35 U.S.C. 363 and a date of **13 January 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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Robin W Asher
Clark Hill
Suite 3500
500 Woodward Avenue
Detroit MI 48226-3435

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In re Application of :
Colin G. Neale :
Application No 10/564487 : DECISION
Filing or 371(c) Date: 05/18/2006 : ON PETITION
Attorney Docket Number: 19365-103567 :

This is a decision on the Petition to Withdraw Holding of Abandonment Under 37 CFR §1.181(a), filed August 25, 2008.

The petition is **granted.**

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers ("Notice"), mailed May 30, 2008. The Notice set a non-extendable two (2) month period for reply. No reply having been received, this application became abandoned on July 31, 2008. A Notice of Abandonment was mailed August 11, 2008.

Applicant files the present petition and asserts that a timely response to the Office action was filed on June 9, 2008. In support of this assertion, Applicant files a copy of their return-receipt postcard. A review of the return-receipt postcard reveals that the postcard acknowledges receipt by this Office of two (2) Replacement Drawing Sheets for Figs. 1-5, for application serial number 10/546,487, and not the above-identified application, 10/564,487.

A review of Office records reveals that the Replacement Drawing Sheets for Figs. 1-5 were filed in application serial number 10/546,487, and included a Transmittal Letter with application serial number 10/546,487. Despite the incorrect application serial number, the return-receipt postcard and Transmittal Letter contained the correct application filing date, title of invention, and attorney Docket Number.

In view of the above, it is apparent that the response to the Office action was timely filed in this Office on June 9, 2008, and due to errors on the part of Applicant and this Office, was inadvertently misplaced. Accord MPEP 502.

Accordingly, the holding of abandonment is hereby withdrawn. The Office has transferred the response to the present application.

The application will be referred to the Office of Data Management for processing of the response in the normal course of business.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

18 JUL 2008

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10 POST OFFICE ROAD - SUITE 110
SILVER SPRING, MD 20910

In re Application of	:	
DAVIDSON, Aaron et al.	:	
Application No.: 10/564,490	:	DECISION ON
PCT No.: PCT/AU2004/000937	:	
Int. Filing Date: 12 July 2004	:	PETITION
Priority Date: 11 July 2003	:	
Attorney Docket No.: 5790	:	UNDER 37 CFR 1.182
For: EXTRACTING ENERGY FROM FLOWING FLUIDS	:	

This decision is in response to applicants' Petition Under 37 CFR 1.182, filed with the United States Patent and Trademark Office on 22 May 2007.

BACKGROUND

On 11 January 2006, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The transmittal letter indicated that the papers were a national phase of PCT/AU2003/000937, but the declaration and other papers indicated they were a national phase of PCT/AU2004/000937.

On 16 June 2006, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903).

On 22 May 2007, applicants submitted a petition under 37 CFR 1.182 to correct the national stage information in the above application to indicate it is a 371 filing of PCT/CA2006/000454.

DISCUSSION

Applicants have explained that the paperwork was intended as a national stage entry of PCT/AU2004/000937. The indications will be corrected in the file and the file will be processed as a national stage entry of PCT/AU2004/000937.

CONCLUSION

For the reasons listed above, the Petition Under 37 CFR 1.182 is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed 16 June 2006 is **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing consistent with this decision, including mailing of a new Notification of Acceptance.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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

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JUL 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Frans Nooren.	:	
Application No. 10/564,516	:	DECISION GRANTING PETITION
Filed: January 13, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 069818-2900	:	

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed July 14, 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 July 1, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1796 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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Paper No.

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

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APR 28 2010

OFFICE OF PETITIONS

In re Patent No. 7,608,343	:	DECISION ON REQUEST
Frans Nooren	:	FOR
Issue Date: October 27, 2009	:	RECONSIDERATION OF
Application No. 10/564,516	:	PATENT TERM ADJUSTMENT
Filed: January 13, 2006	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
069818-2900	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 3, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred eleven days (711) 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 sixty-nine (569) days is **GRANTED to the extent indicated herein.**

As to the "B" delay, a request for continued examination was filed on July 14, 2009. 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. Therefore, the over three year period begins on January 14, 2009, the day after the date three years after the application commenced the national stage and ends on July 13, 2009, the day before the RCE was filed, and is 181 days, not 287 days. See 35 U.S.C. 154(b)(1)(B)(i).

Petitioner notes, in the timeline attached to the petition, an additional period of reduction for applicant delay of 17 days, from the mailing of the notice of allowance on July 3, 2009, to the mailing of a decision on the petition to withdraw from issue, mailed on July 20, 2009.

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While petitioner is correct that an additional period of reduction should be entered, the reduction calculated by petitioner is incorrect. In this regard, a review of the record confirms that an additional period of reduction should be entered for applicant's failure to engage pursuant to 37 CFR 1.704(c)(10), which states:

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

On April 3, 2009, a Notice of Allowance was mailed. On July 14, 2009, applicants filed an RCE and an information disclosure statement (IDS). The IDS submitted on July 14, 2009, did not contain the statement set forth in 37 CFR 1.704(d). Prior to filing the RCE, applicants paid the issue fee. This set the calculation of the period of reduction pursuant to 37 CFR 1.704(b), if any, for applicant delay. The filing of the RCE and IDS on July 14, 2009, after the mailing of the Notice of Allowance constituted a failure to engage pursuant to 37 CFR 1.704(c)(10). This period is 53 days, counting the number of days beginning on July 14, 2009, the date the RCE and IDS were filed, and ending on September 4, 2009, the date of mailing of the new Notice of Allowance in response.

Accordingly, a period of reduction of 53 days pursuant to 37 CFR 1.704(c)(10) will be entered.

The patent term adjustment is revised to 569 days (454 days Office delay + 181 days over three year delay - 66 (13 + 53) days of applicant delay).

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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 Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred sixty-nine (569)** 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

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,608,343 B2

DATED : **October 27, 2009** **DRAFT**

INVENTOR(S) : Nooren 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 441 days.

Delete the phrase "by 441 days" and insert – by 569 days--

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OFFICE OF PETITIONS

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

In re Application of

JANKO, Otto et al.
Application No. 10/564,517
Filed: November 16, 2006
Attorney Docket No. **449122086000**

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 21, 2007.

The request is **APPROVED**.

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

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

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

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **OTTO JANKO**
LEIBNIZGASSE 35/18
WIEN, 1100
AUSTRIA

cc: **BELL, BOYD & LLOYD, LLP**
P.O. BOX 1135
CHICAGO, IL 60690

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/564,517	11/16/2006	Otto Janko	449122086000

CONFIRMATION NO. 3316

OC000000025209614

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 06/21/2007.

- 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. Edson

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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05 DEC 2006

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

In re Application of KIM	:	
U.S. Application No.: 10/564,561	:	
PCT Application No.: PCT/KR2004/001733	:	
Int. Filing Date: 13 July 2004	:	DECISION
Priority Date Claimed: 14 July 2003	:	
Attorney Docket No.: 53200.830003.US0	:	
For: METHOD FOR ONLINE MANAGEMENT OF MEDICAL RECORD FORMS	:	

This is in response to the "Request for Withdrawal as Attorney or Agent and Change of Correspondence Address" filed 16 August 2006.

BACKGROUND

On 13 July 2004, applicant filed international application PCT/KR2004/001733, which claimed priority of an earlier Korea application filed 14 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 20 January 2005. The thirty-month period for paying the basic national fee in the United States expired on 14 January 2006.

On 12 January 2006, 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 30 May 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 16 August 2006, applicant's representative filed the present request to withdraw as attorney and change of correspondence address.

DISCUSSION

MPEP 402.06 states in relevant part,

> The Director of the United States Patent and Trademark Office usually requires that there be at least 30 days between approval of withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a). This is so that the applicant will have sufficient time to obtain other representation or take other action. If a period has been set for reply and the period may be extended without a showing of cause pursuant to 37 CFR 1.136(a) by filing a petition for extension of time and fee, the practitioner will not be required to seek such extension of time for withdrawal to be approved. In such a situation, however, withdrawal will not be approved unless at least 30 days would remain between the date of approval and the last date on which such a petition for extension of time and fee could properly be filed.

In the present case, less than 30 days would remain between approval of the withdrawal and the later of the expiration date of the time period for reply to the Notification of Missing Requirements mailed 30 May 2006 or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a). Thus, approval of the withdrawal at the present time would not be appropriate.

It is further noted that the request for withdrawal seeks to withdraw "all of the attorneys/agents associated with Customer Number 26582". A review of the application file reveals that no power of attorney for all of the attorneys/agents associated with Customer Number 26582 is present. Thus, withdrawal of all of the attorneys/agents associated with Customer Number 26582 would be moot with the exception of Brian Kinnear. Because Brian Kinnear signed the papers filed on 12 January 2006, his signature constitutes a representation to the USPTO that he is authorized to represent the applicant. See 37 CFR 1.34. Thus, Brian Kinnear remains as the agent of record.

The change of correspondence address, which was authorized by the agent of record, has been entered.

CONCLUSION

For the reasons above, the request to withdraw as attorney/agent 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.

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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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

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APR 27 2010

OFFICE OF PETITIONS

In re Application of :
Eric Fassiau, et al. :
Application No.: 10/564,589 : ON PETITION
Filed: March 23, 2006 :
Attorney Docket No.: 05129-00117-US :

This is a decision on the petition, filed April 26, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 1, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1796 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.*

07 MAR 2006

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BELL, BOYD & LLOYD LLC
P. O. BOX 1135
CHICAGO IL 60690-1135

In re Application of	:	
SECRETIN	:	
Application No.: 10/564,599	:	DECISION ON
PCT No.: PCT/EP04/06614	:	
Int. Filing Date: 18 June 2004	:	PETITION UNDER
Priority Date: 23 June 2003	:	
Attorney Docket No.: 112701-702	:	37 CFR 1.137(b)
For: INFANT OR FOLLOW-ON FORMULA	:	

This decision is in response to applicants' submission filed 13 January 2006.

BACKGROUND

On 18 June 2004, applicants filed international application PCT/EP04/06614 which designated the U.S. and claimed a priority date of 23 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 23 December 2005.

On 13 January 2006, 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 13 January 2006.

As to item (2), applicant submitted the petition fee on 13 January 2006.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an 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

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P.O. BOX 1135
CHICAGO IL 60690

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OFFICE OF PETITIONS

In re Application of	:	
Marie-Christine Secretin	:	
Application No. 10/564,599	:	DECISION ON PETITION
Filed: January 13, 2006	:	
Attorney Docket No. 112701-702	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 28, 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 18, 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 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a 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 1794 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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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Jörg Heuer	: DECISION ON REQUEST FOR
Patent Number	: 7607080	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/564,601	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **807** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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11 DEC 2006

David Klein
Dekel Patent Ltd.
Beit HaRofim
18 Menuha VeNahala Street, Room 27
Rehovot ISRAEL

In re Application of	:	
BLAU, Pinhas et al.	:	
Application No.: 10/564,630	:	DECISION
PCT No.: PCT/IL04/00647	:	
Int. Filing Date: 16 July 2004	:	ON REQUEST UNDER
Priority Date: 16 July 2003	:	
Attorney's Docket No.: 1327MMG-US	:	37 CFR 1.497(d)
For: OPTICAL FREQUENCY CONVERTER FOR NON-POLARIZED LIGHT	:	

This decision is in response to applicants' request under 37 CFR 1.48(a), filed in the United States Patent and Trademark Office on 05 September 2006. It has been treated as a request under 37 CFR 1.497(d).

BACKGROUND

On 16 July 2004, applicants filed international application PCT/IL04/00647, which claimed a priority date of 16 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 27 January 2005. The deadline for payment of the basic national fee in the United States was midnight on 16 January 2006.

On 13 January 2006, applicants 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 10 July 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and indicating that inventors 2, 3, and 4 were not listed on the international publication and that the Office did not have a record of a recording of a change, adding the inventors.

On 05 September 2006, applicants filed the instant request.

DISCUSSION

Applicants file this request to add Raphael Lavi, Shaul Pearl and Ariel Elior as inventors.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1) and (3) have been satisfied. Applicants have provided a statement from the people being added as inventors, that any error in inventorship occurred without deceptive intention on their parts. Applicants have provided the consent of the assignee and the statement under 37 CFR 3.73.

Item (2) has not been satisfied. Though applicants indicate that the fee is being provided, a review of Office records does not indicate that the fee has been paid. The processing fee of $130 is required.

CONCLUSION

For the above reasons, applicants' request under 37 CFR 1.497(d) is **REFUSED**.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)". Extensions of time are available.

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

29 MAR 2007

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David Klein
Dekel Patent Ltd.
Beit HaRofim
18 Menuha VeNahala Street, Room 27
Rehovot IL ISRAEL

In re Application of BLAU et al. Application No.: 10/564,630 PCT No.: PCT/IL04/00647 Int. Filing Date: 16 July 2004 Priority Date: 16 July 2003 Attorney Docket No.:1327MMG-US For: OPTICAL FREQUENCY CONVERTER FOR NON-POLARIZED LIGHT	DECISION ON PETITION UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Request to Correct Inventorship", filed on 26 December 2006 in the United States Patent and Trademark Office (USPTO), requesting the addition of Raphael Lavi, Shaul Pearl and Ariel Elior as inventors in the above reference application.

BACKGROUND

The factual background set forth in the decision mailed on 11 December 2006 is incorporated by reference. In that decision applicant was advised that the fee for filing a petition under 37 CFR 1.497(d) was not paid and was required. The decision indicated that the other requirements of 37 CFR 1.497(d) had been met.

On 26 December 2006, applicant filed a renewed petition under 37 CFR 1.497(d).

DISCUSSION

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

Applicant previously satisfied Items (1) and (3) above.

As previously indicated, Raphael Lavi, Shaul Pearl and Ariel Elior were not named as inventors in the published international application PCT/IB04/00647. The declaration submitted on 13 January 2006 identifies Raphael Lavi, Shaul Pearl and Ariel Elior as co-inventors. In response to the 11 December 2006 decision, applicant now files a renewed petition under 37 CFR 1.497(d) to add Raphael Lavi, Shaul Pearl and Ariel Elior as an inventors along with the

appropriate petition fee of $130. Item (2) above has now been satisfied.

Accordingly, applicant has met all of the requirements of 37 CFR 1.497(d) to add Raphael Lavi, Shaul Pearl and Ariel Elior as co-inventors in the above-identified international application.

The declaration filed on 13 January 2006 meets the requirements of 37 CFR 1.497 (a) and (b) and is acceptable as filed.

CONCLUSION

The declaration executed by Raphael Lavi, Shaul Pearl and Ariel Elior along with the joint inventors named 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 Raphael Lavi, Shaul Pearl and Ariel Elior 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), (2) and (4) date is **16 January 2006.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

20 DEC 2006

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

In re Application of BIRNBAUM et al	:	
U.S. Application No.: 10/564,638	:	
PCT Application No.: PCT/US2004/018933	:	
Int. Filing Date: 15 July 2004	:	DECISION
Priority Date Claimed: 15 July 2003	:	
Attorney Docket No.: A8563	:	
For: SOCIAL NETWORK OR IDENTITIES AND QUERY METHOD THEREFOR	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.47(a)" filed 05 December 2006.

BACKGROUND

On 15 July 2004, applicant filed international application PCT/US2004/018933, which claimed priority of an earlier United States application filed 15 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 15 January 2006.

On 12 January 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 05 May 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 05 December 2006, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be

reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, the declarations filed with the petition are improper because they fail to state the citizenship of the second inventor as required by 35 U.S.C. 115 and 37 CFR 1.497(a)(3).

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The petition states that joint inventor Adarbad Master cannot be located after diligent effort. Petitioner has supplied the affidavit of Nigel Simmons, the person with apparent firsthand knowledge of efforts made to locate Master. Simmons' affidavit indicates that although he was at one time in contact with Master, Master can no longer be reached. Master has failed to respond to repeated electronic mail messages. Furthermore, although application papers mailed to Master on 28 November 2006 were delivered to the Master's last known address, the tracking data indicates that the correspondence was accepted by someone other than Master. However, the petition does not establish that applicant tried any additional methods to locate Master, i.e. by telephone, by consulting Master's former co-workers, by attempting to obtain a forwarding address, or by searching public directories. Thus, it would not be reasonable to conclude at the present time that Master cannot be found after diligent effort.

With regard to item (3) above, applicant is advised that effective 22 November 2004, the fee for a petition under 37 CFR 1.47 increased to $200.00. Any deficiency in the petition fee will be charged to Deposit Account No. 19-4880 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 this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file a proper response will result in abandonment of

the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

12/20/2006 SBASHEIR 00000006 194880 10564638
Sale Ref: 00000006 DAN: 194880 10564638
01 FC:1463 70.00 DA 130.00 OP

Adjustment date: 12/20/2006 SBASHEIR
12/07/2006 MKAYPAGH 00000034 10564638
02 FC:1464 -130.00 OP

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21 JUN 2007

SUGHRUE MION, PLLC
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WASHINGTON, DC 20037

In re Application of BIRNBAUM et al	:	
U.S. Application No.: 10/564,638	:	
PCT Application No.: PCT/US2004/018933	:	
Int. Filing Date: 15 July 2004	:	DECISION
Priority Date Claimed: 15 July 2003	:	
Attorney Docket No.: A8563	:	
For: SOCIAL NETWORK OR IDENTITIES AND QUERY METHOD THEREFOR	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.47(a)" filed 20 June 2007.

BACKGROUND

On 15 July 2004, applicant filed international application PCT/US2004/018933, which claimed priority of an earlier United States application filed 15 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 15 January 2006.

On 12 January 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 05 May 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 05 December 2006, applicant filed a petition under 37 CFR 1.47(a).

On 20 December 2006, this Office mailed a decision dismissing the 05 December 2006 petition.

On 20 June 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.

Applicant has previously satisfied items (3) and (4) above.

With regard to item (1) above, as stated in the decision mailed 20 December 2006, the declarations filed on 05 December 2006 are improper because they fail to state the citizenship of the second inventor as required by 35 U.S.C. 115 and 37 CFR 1.497(a)(3).

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The petition states that joint inventor Adarbad Master cannot be located after diligent effort. Petitioner has supplied affidavits from Nigel Simmons, the person with apparent firsthand knowledge of efforts made to locate Master. Simmons' affidavits indicate that although he was at one time in contact with Master, Master can no longer be reached. Although application papers mailed to Master on 28 November 2006 were delivered to the Master's last known address, the tracking data indicates that the correspondence was accepted by someone other than Master. Furthermore, Simmons' affidavits describe unsuccessful attempts to reach Master by electronic mail, by telephone, by consulting Master's former co-workers, and by searching public directories. Thus, it can be concluded with reasonable certainty that Master cannot be found after diligent effort.

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). Failure to timely file a proper response will result in abandonment of

the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

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

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31 AUG 2007

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

In re Application of BIRNBAUM et al	:	
U.S. Application No.: 10/564,638	:	
PCT Application No.: PCT/US2004/018933	:	
Int. Filing Date: 15 July 2004	:	DECISION
Priority Date Claimed: 15 July 2003	:	
Attorney Docket No.: A8563	:	
For: SOCIAL NETWORK OR IDENTITIES AND QUERY METHOD THEREFOR	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.47(a)" filed 21 August 2007.

BACKGROUND

On 15 July 2004, applicant filed international application PCT/US2004/018933, which claimed priority of an earlier United States application filed 15 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 15 January 2006.

On 12 January 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 05 May 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 05 December 2006, applicant filed a petition under 37 CFR 1.47(a).

On 20 December 2006, this Office mailed a decision dismissing the 05 December 2006 petition.

On 20 June 2007, applicant filed a renewed petition under 37 CFR 1.47(a).

On 21 June 2007, this Office mailed a decision dismissing the 20 June 2007 petition.

On 21 August 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 (2), (3), and (4) above.

With regard to item (1) above, the declaration filed with the present renewed petition is proper.

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 15 July 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 21 August 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

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31 AUG 2007

ADARBAD MASTER
1240 INDIA ST. #1910
SAN DIEGO, CA 92101

In re Application of BIRNBAUM et al
U.S. Application No.: 10/564,638
PCT Application No.: PCT/US2004/018933
Int. Filing Date: 15 July 2004
Priority Date Claimed: 15 July 2003
For: SOCIAL NETWORK OR IDENTITIES AND QUERY METHOD THEREFOR

Dear Adarbad Master:

You are named as a joint 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 set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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Attorney Docket No.: A8563

08 MAY 2006

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Michael J. Striker
Striker, Striker & Stenby
103 East Neck Road
Huntington, NY 11743

In re Application of
KRAENZLER, et al.
Application No.: 10/564,667
PCT No.: PCT/EP04/52876
Int. Filing Date: 09 September 2004
Priority Date: 20 December 2003
Attorney Docket No.: 3476
For: INSERTION TOOL FOR AN ANGLE GRINDER

DECISION ON PETITION

UNDER 37 CFR 1.42

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. The combined declaration and declaration filed 13 January 2006 is being treated as a request for status pursuant to 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 09 September 2004, applicant filed international application PCT/EP04/52876, which claimed a priority date of 20 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 July 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, 20 June 2006.

On 13 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee, an English translation of the international application, an Information Disclosure Statement, a preliminary amendment, an assignment document and a combined declaration and power of attorney.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

The declaration filed 13 January 2006 was identifies "Mrs. Marcus Heckmann" as legal representative and sole heir to the estate of deceased joint inventor Markus Heckmann. The declaration has been executed by all of the remaining joint inventors and sets forth the residence,

post office address and country of citizenship for both the deceased inventor and the legal representative. However, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that it has not been executed by the legal representative. In addition, the declaration fails to comply with 37 CFR 1.63 in that Mrs. Heckmann's name does not appear on the declaration. 37 CFR 1.63 (a)(2) states that the declaration must identify each inventor by full name, including family name, and at least one given name without abbreviation together with any other given name of initial. If the heiress's name is not provided on a newly filed declaration executed by Mrs. Heckmann, a supplemental declaration or application data sheet will be required.

CONCLUSION

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

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

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

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STRIKER, STRIKER & STENBY
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HUNTINGTON, NY 11743

In re Application of KRAENZLER et al	:	
U.S. Application No.: 10/564,668	:	
PCT Application No.: PCT/DE2004/002131	:	DECISION
Int. Filing Date: 24 September 2004	:	
Priority Date Claimed: 08 November 2003	:	
Attorney Docket No.: 3437	:	
For: TOOL HOLDING FIXTURE	:	

This is in response to the papers filed 13 January 2006, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 24 September 2004, applicant filed international application PCT/DE2004/002131, which claimed priority of an earlier Germany application filed 08 November 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 02 June 2005. The thirty-month period for paying the basic national fee in the United States expired on 08 May 2006.

On 13 January 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and an executed declaration.

DISCUSSION

The declaration states that joint inventor Markus Heckmann is deceased.

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

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have

been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 13 January 2006 is not executed by the legal representative of the deceased inventor.

Additionally, the declaration lists two inventors, Christof Hoelzl and Johann Huber, who are not listed in the published international application.

37 CFR 1.497(d) (effective 07 November 2000) states,

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

None of the requirements under 37 CFR 1.497(d) have been satisfied.

CONCLUSION

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

If reconsideration on the merits of the request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42".

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

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30 APR 2007

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HUNTINGTON, NY 11743

In re Application of KRAENZLER et al	:	
U.S. Application No.: 10/564,668	:	
PCT Application No.: PCT/DE2004/002131	:	DECISION
Int. Filing Date: 24 September 2004	:	
Priority Date Claimed: 08 November 2003	:	
Attorney Docket No.: 3437	:	
For: TOOL HOLDING FIXTURE	:	

This is in response to applicant's "Renewed Request for Status Under 37 CFR 1.42" filed 26 April 2007, which is being treated under 37 CFR 1.42, 37 CFR 1.47(a), and 37 CFR 1.497(d).

BACKGROUND

On 24 September 2004, applicant filed international application PCT/DE2004/002131, which claimed priority of an earlier Germany application filed 08 November 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 02 June 2005. The thirty-month period for paying the basic national fee in the United States expired on 08 May 2006.

On 13 January 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and a request for status under 37 CFR 1.42.

On 26 April 2007, this office mailed a decision dismissing the 13 January 2006 request for status.

On 26 April 2007, applicant filed the present renewed request for status along with petitions under 37 CFR 1.47(a) and 37 CFR 1.497(d).

DISCUSSION

I. Request for Status Under 37 CFR 1.42

The declaration states that joint inventor Markus Heckmann is deceased.

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

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

The declaration filed 26 April 2007 fails to satisfy items (1), (3), and (4) above.

II. Petition Under 37 CFR 1.47(a)

The petition states that Kirsten Heckmann, the legal representative of deceased inventor Markus Heckmann, refuses to sign the application papers.

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, although applicant has submitted a declaration signed by the available inventors, each on his/her own behalf and on behalf of the nonsigning legal representative of the deceased inventor, the declaration is deficient for the reasons set forth in §I above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence

> should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that Kirsten Heckmann refuses to sign the application papers. The petition adequately demonstrates that a bona fide attempt was made to present a copy of the application papers to Kirsten Heckmann for signature (see letter dated 29 August 2006). However, the petition fails to sufficiently illustrate that Kirsten Heckmann refuses to sign. The letter from Kirsten Heckmann dated 19 September 2005 merely states that she has disclaimed any rights to the invention, not that she refuses to sign the application papers. Lack of financial interest in a patent application does not relieve the inventor or his legal representative of the duty to sign. It is noted that if petitioner can establish that the letter to Kirsten Heckmann dated 29 August 2006 was either personally received by Ms. Heckman or that she resided at the delivery address at the time the correspondence was delivered, Ms. Heckman's failure to respond to the letter would constitute a constructive refusal to sign.

With regard to item (3) above, the requisite $200.00 petition fee will be charged to Deposit Account No. 19-4675.

With regard to item (4) above, the petition states the last known address of the nonsigning legal representative.

III. Petition Under 37 CFR 1.497(d)

The declaration lists two inventors, Christof Hoelzl and Johann Huber, who are not listed in the published international application.

37 CFR 1.497(d) (effective 07 November 2000) states,

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

With regard to item (1) above, the requisite statements have been provided.

With regard to item (2) above, the requisite processing fee will be charged to Deposit Account No. 19-4675.

With regard to item (3) above, although the petition states that written consent of the assignee is attached, no such written consent appears in the application file.

CONCLUSION

For the reasons in §I above, the renewed request for status under 37 CFR 1.42 is DISMISSED without prejudice.

For the reasons in §II above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

For the reasons in §III above, the petition under 37 CFR 1.497(d) is DISMISSED without prejudice.

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

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

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29 JUN 2007
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In re Application of KRAENZLER et al :
U.S. Application No.: 10/564,668 :
PCT Application No.: PCT/DE2004/002131 : DECISION
Int. Filing Date: 24 September 2004 :
Priority Date Claimed: 08 November 2003 :
Attorney Docket No.: 3437 :
For: TOOL HOLDING FIXTURE :

This is in response to applicant's "Renewed Request for Status Under 37 CFR 1.42, 37 CFR 1.47(a) and 37 CFR 1.497(d)" filed 27 June 2007.

BACKGROUND

On 24 September 2004, applicant filed international application PCT/DE2004/002131, which claimed priority of an earlier Germany application filed 08 November 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 02 June 2005. The thirty-month period for paying the basic national fee in the United States expired on 08 May 2006.

On 13 January 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and a request for status under 37 CFR 1.42.

On 26 April 2007, this Office mailed a decision dismissing the 13 January 2006 request for status.

On 26 April 2007, applicant filed a renewed request for status along with petitions under 37 CFR 1.47(a) and 37 CFR 1.497(d).

On 30 April 2007, this Office mailed a decision dismissing the 26 April 2007 request for status and petitions.

On 27 June 2007, applicant filed the present renewed request for status and renewed petitions under 37 CFR 1.47(a) and 37 CFR 1.497(d).

DISCUSSION

I. Request for Status Under 37 CFR 1.42

The declaration states that joint inventor Markus Heckmann is deceased.

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

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

The declaration filed 26 April 2007 is in compliance with 37 CFR 1.497(b)(2). The request for status under 37 CFR 1.42 will be granted upon the filing of a grantable petition under 37 CFR 1.497(d). See §III below.

II. Petition Under 37 CFR 1.47(a)

The petition states that Kirsten Heckmann, the legal representative of deceased inventor Markus Heckmann, refuses to sign the application papers.

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Petitioner has previously satisfied items (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 Kirsten Heckmann refuses to sign the application papers. The petition adequately demonstrates that a bona fide attempt was made to present a copy of the application papers to Kirsten Heckmann for signature (see letter dated 29 August 2006). Furthermore, the petition sufficiently illustrates that Kirsten Heckmann refuses to sign. In particular, Kirsten Heckmann's failure to respond to the letter Heckmann dated 29 August 2006 constitutes a constructive refusal to sign. Petitioner has sufficiently established that Kirsten Heckmann resided at the delivery address at the time the correspondence was delivered. Thus, it can be concluded with reasonable certainty that Kirsten Heckmann refuses to sign the application papers.

The present application will be accorded status under 37 CFR 1.47(a) upon the filing of a grantable petition under 37 CFR 1.497(d). See §III below.

III. Petition Under 37 CFR 1.497(d)

The declaration lists two inventors, Christof Hoelzl and Johann Huber, who are not listed in the published international application.

37 CFR 1.497(d) (effective 07 November 2000) states,

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

Petitioner has previously satisfied items (1) and (2) above.

With regard to item (3) above, although the statement of consent submitted with the petition states that it is signed by "an authorized representative", such statement from the assignee must specifically state that the person signing is authorized to act on behalf of the assignee, which signifies broad decision-making authority as opposed to merely being authorized to transact business with the Office. Alternatively, if the person signing is an officer of the assignee, apparent authority may be indicated by listing the executor's title on the statement. It

is further noted that the name of person signing the present statement is either missing or illegible.

CONCLUSION

For the reasons in §I above, the renewed request for status under 37 CFR 1.42 is DISMISSED without prejudice.

For the reasons in §II above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

For the reasons in §III above, the petition under 37 CFR 1.497(d) is DISMISSED without prejudice.

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

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

Bryan Lin

Bryan Lin
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PCT Legal Office

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30 JUL 2007

STRIKER, STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

In re Application of KRAENZLER et al	:	
U.S. Application No.: 10/564,668	:	
PCT Application No.: PCT/DE2004/002131	:	DECISION
Int. Filing Date: 24 September 2004	:	
Priority Date Claimed: 08 November 2003	:	
Attorney Docket No.: 3437	:	
For: TOOL HOLDING FIXTURE	:	

This is in response to applicant's "Renewed Request for Status Under 37 CFR 1.42, 37 CFR 1.47(a) and 37 CFR 1.497(d)" filed 25 July 2007.

BACKGROUND

On 24 September 2004, applicant filed international application PCT/DE2004/002131, which claimed priority of an earlier Germany application filed 08 November 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 02 June 2005. The thirty-month period for paying the basic national fee in the United States expired on 08 May 2006.

On 13 January 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and a request for status under 37 CFR 1.42.

On 26 April 2007, this Office mailed a decision dismissing the 13 January 2006 request for status.

On 26 April 2007, applicant filed a renewed request for status along with petitions under 37 CFR 1.47(a) and 37 CFR 1.497(d).

On 30 April 2007, this Office mailed a decision dismissing the 26 April 2007 request for status and petitions.

On 27 June 2007, applicant filed a renewed request for status and renewed petitions under 37 CFR 1.47(a) and 37 CFR 1.497(d).

On 29 June 2007, this Office mailed a decision dismissing the 27 June 2007 request for status and petitions.

On 26 July 2007, applicant filed the present renewed request for status and renewed petitions under 37 CFR 1.47(a) and 37 CFR 1.497(d).

DISCUSSION

I. Request for Status Under 37 CFR 1.42

The declaration states that joint inventor Markus Heckmann is deceased.

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

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

The declaration filed 26 April 2007 is in compliance with 37 CFR 1.497(b)(2).

II. Petition Under 37 CFR 1.47(a)

The petition states that Kirsten Heckmann, the legal representative of deceased inventor Markus Heckmann, refuses to sign the application papers.

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

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

III. Petition Under 37 CFR 1.497(d)

The declaration lists two inventors, Christof Hoelzl and Johann Huber, who are not listed in the published international application.

37 CFR 1.497(d) (effective 07 November 2000) states,

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

Petitioner has previously satisfied items (1) and (2) above.

With regard to item (3) above, the present renewed petition includes a proper written statement of consent from the assignee.

CONCLUSION

For the reasons in §I above, the renewed request for status under 37 CFR 1.42 is GRANTED.

For the reasons in §II above, the petition under 37 CFR 1.47(a) is GRANTED.

For the reasons in §III above, the petition under 37 CFR 1.497(d) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 24 September 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 26 April 2007.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning legal representative of deceased inventor Markus Heckmann at the last known 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

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0 4 APR 2008

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Striker Striker & Stenby
103 East Neck Road
Huntington NY 11743

In re Application of	:	
HOFMANN et al.	:	DECISION ON
Application No.: 10/564,669	:	
PCT No.: PCT/EP2004/052875	:	PAPERS
Int. Filing Date: 08 November 2004	:	
Priority Date: 20 December 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 3474	:	
For: INSERTION TOOL FOR A MACHINE TOOL	:	

This is a decision on the submission filed by applicants on 13 January 2006, which was accompanied by, *inter alia*, a declaration of the inventors. The indication in the declaration that inventor Markus HECKMANN is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 08 November 2004, applicants filed international application PCT/EP2004/052875 which designated the U.S. and claimed a priority date of 20 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 07 July 2005. The thirty-month period for paying the basic national fee in the United States expires at midnight on 20 June 2006.

On 13 January 2006, 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 three declarations of inventors.

On 24 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AN 37 CFR 1.495 (Form PCT/DO/EO/903) according the application a 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date of 13 January 2006 and a 35 U.S.C. 371 date of 13 January 2006.

DISCUSSION

Declaration of Inventors

The declarations of inventors filed 13 January 2006 are not in compliance with 37 CFR 1.497(a)-(b) because they does not list the inventorship set forth in the international application.

37 CFR 1.41(a)(4) states:

> The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92bis. See § 1.497(d) and (f) for filing an oath or declaration naming an inventive entity different from the inventive entity named in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis subsequent to the execution of any declaration filed under PCT Rule 4.17(iv) (§ 1.48(f)(1) does not apply to an international application entering the national stage under 35 U.S.C. 371).

The declarations identify two additional inventors (Christof Hoelzl and Johan Huber) compared to the international application. A Form PCT/IB/306 (NOTIFICATION OF THE RECORDING OF A CHANGE) from the International Bureau indicating that an inventor or inventors has been added does not appear in the file. Nor is there any other indication that a PCT Rule 92bis change has been made in the above-identified international application. Accordingly, the inventorship in the national stage is the inventorship set forth in the international application and the declarations filed 13 January 2006 is not sufficient.

Additionally, the declarations filed 13 January 2006 are not sufficient because each contains non-initialed alterations (page 2 of each declaration). 37 CFR 1.52(c). "The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration." MPEP § 605.04(a). Item I.

Further, the declaration of inventors signed by Albrecht Hofmann, Harald Krondorfer, Thomas Schomisch, and Christof Hoelzl is not in compliance with 37 CFR 1.497(a)-(b) because it does not list Markus Heckmann's citizenship in addition to the residence, mailing address and citizenship of the person(s) signing on behalf of the deceased inventor (37 CFR 1.497(b)(2)). (The third page of this declaration is missing.)

Finally, the three declarations of inventors filed 13 January 2006 are not in compliance with 37 CFR 1.497(a)-(b) because none of them are executed by the legal representative.

Because the declarations of inventors filed 13 January 2006 are insufficient, the NOTIFICATION OF ACCEPTANCE mailed 24 April 2006 is hereby VACATED.

Request Under 37 CFR 1.42

The indication in the declaration that Markus HECKMANN is deceased has been treated as a request for status under 37 CFR 1.42.

The declaration does not include the residence, mailing address and citizenship of the person(s) signing on behalf of the deceased inventor (37 CFR 1.497(b)(2)) in addition to the *full name and citizenship of the deceased inventor* (37 CFR 1.497(a)(3)).

CONCLUSION

For the reasons set forth above, the NOTICE OF ACCEPTANCE OF APPLICATION mailed 24 April 2006 is VACATED.

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

Applicants are required to file (1) a declaration in compliance with 37 CFR 1.497(a)-(b) naming the proper inventive entity, or a proper change of inventorship under 37 CFR 1.497(d), or a Form PCT/IB/306 indicating a change effected under PCT Rule 92bis corresponding to the declaration filed 02 October 2006, and (2) a declaration in compliance with 37 CFR 1.497 and 1.42 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.

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02 FEB 2009

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In re Application of	:	
HOFMANN et al.	:	DECISION
Application No.: 10/564,669	:	
PCT No.: PCT/EP2004/052875	:	
Int. Filing Date: 08 November 2004	:	
Priority Date: 20 December 2003	:	
Attorney's Docket No.: 3474	:	
For: INSERTION TOOL FOR A MACHINE TOOL	:	

This is a decision on the submission filed by applicants on 17 November 2008, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 08 November 2004, applicants filed international application PCT/EP2004/052875 which designated the U.S. and claimed a priority date of 20 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 07 July 2005. The thirty-month period for paying the basic national fee in the United States expires at midnight on 20 June 2006.

On 13 January 2006, 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 three declarations of inventors. The indication in the declaration that inventor Markus HECKMANN is deceased has been treated as a request for status under 37 CFR 1.42.

On 24 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AN 37 CFR 1.495 (Form PCT/DO/EO/903) according the application a 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date of 13 January 2006 and a 35 U.S.C. 371 date of 13 January 2006.

On 04 April 2008, a decision was mailed refusing applicants' request for status under 37 CFR 1.42 because the declarations did not include the residence, mailing address and citizenship of the person(s) signing on behalf of the deceased inventor (37 CFR 1.497(b)(2)) in addition to

the *full name and citizenship of the deceased inventor* (37 CFR 1.497(a)(3)). The decision also noted
(1) that the declarations of inventors filed 13 January 2006 were not in compliance with 37 CFR 1.497(a)-(b) because they did not list the inventorship set forth in the international application (The declarations identify two additional inventors (Christof Hoelzl and Johan Huber) compared to the international application.),
(2) the declarations filed 13 January 2006 were not sufficient because each contained non-initialed alterations (page 2 of each declaration),
(3) the declaration of inventors signed by Albrecht Hofmann, Harald Krondorfer, Thomas Schomisch, and Christof Hoelzl was not in compliance with 37 CFR 1.497(a)-(b) because it did not list Markus Heckmann's citizenship in addition to the residence, mailing address and citizenship of the person(s) signing on behalf of the deceased inventor (37 CFR 1.497(b)(2)). (The third page of this declaration is missing.), and
(4) the three declarations of inventors filed 13 January 2006 were not in compliance with 37 CFR 1.497(a)-(b) because none of them were executed by the legal representative.
The decision also vacated the NOTIFICATION OF ACCEPTANCE mailed 24 April 2006. Finally, the decision set a two-month extendable time period for response.

On 30 July 2008, a Notice of Abandonment was mailed indicating that the application was abandoned for failure to timely file a proper reply to the Office letter mailed on 04 April 2008.

On 17 November 2008, applicants filed the instant petition, which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

The instant petition requests that the that the application be reinstated. The Notice of Abandonment mailed 30 July 2008 was issued before the application became abandoned and is hereby VACATED. Nevertheless, the application is now abandoned for failure to timely file a proper reply to the Office letter mailed on 04 April 2008. Accordingly, the application is not reinstated.

CONCLUSION

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

For the reasons set forth above, the application is **ABANDONED**.

For the reasons set forth above, the Notice of Abandonment mailed 30 July 2008 is VACATED.

Applicants may wish to consider filing a petition under 37 CFR 1.137 to revive the application.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for preparation and mailing of a NOTIFICATION OF ABANDONMENT.

/Daniel Stemmer/

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11 MAY 2009

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Huntington NY 11743

In re Application of	:	
HOFMANN et al.	:	DECISION
Application No.: 10/564,669	:	
PCT No.: PCT/EP2004/052875	:	
Int. Filing Date: 08 November 2004	:	
Priority Date: 20 December 2003	:	
Attorney's Docket No.: 3474	:	
For: INSERTION TOOL FOR A MACHINE TOOL	:	

This is a decision on the submission filed by applicants on 11 February 2009, which includes petitions under 37 CFR 1.137(b), 1.42, and 1.47(a).

BACKGROUND

On 08 November 2004, applicants filed international application PCT/EP2004/052875 which designated the U.S. and claimed a priority date of 20 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 07 July 2005. The thirty-month period for paying the basic national fee in the United States expires at midnight on 20 June 2006.

On 13 January 2006, 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 three declarations of inventors. The indication in the declaration that inventor Markus HECKMANN is deceased has been treated as a request for status under 37 CFR 1.42.

On 24 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AN 37 CFR 1.495 (Form PCT/DO/EO/903) according the application a 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date of 13 January 2006 and a 35 U.S.C. 371 date of 13 January 2006.

On 04 April 2008, a decision was mailed refusing applicants' request for status under 37 CFR 1.42 because the declarations did not include the residence, mailing address and citizenship of the person(s) signing on behalf of the deceased inventor (37 CFR 1.497(b)(2)) in addition to the *full name and citizenship of the deceased inventor* (37 CFR 1.497(a)(3)). The decision also

noted
(1) that the declarations of inventors filed 13 January 2006 were not in compliance with 37 CFR 1.497(a)-(b) because they did not list the inventorship set forth in the international application (The declarations identify two additional inventors (Christof Hoelzl and Johan Huber) compared to the international application.),
(2) the declarations filed 13 January 2006 were not sufficient because each contained non-initialed alterations (page 2 of each declaration),
(3) the declaration of inventors signed by Albrecht Hofmann, Harald Krondorfer, Thomas Schomisch, and Christof Hoelzl was not in compliance with 37 CFR 1.497(a)-(b) because it did not list Markus Heckmann's citizenship in addition to the residence, mailing address and citizenship of the person(s) signing on behalf of the deceased inventor (37 CFR 1.497(b)(2)). (The third page of this declaration is missing.), and
(4) the three declarations of inventors filed 13 January 2006 were not in compliance with 37 CFR 1.497(a)-(b) because none of them were executed by the legal representative.
The decision also vacated the NOTIFICATION OF ACCEPTANCE mailed 24 April 2006. Finally, the decision set a two-month extendable time period for response.

On 30 July 2008, a Notice of Abandonment was mailed indicating that the application was abandoned for failure to timely file a proper reply to the Office letter mailed on 04 April 2008.

On 17 November 2008, applicants filed a petition, which was properly treated as a petition under 37 CFR 1.181, requesting that the application be reinstated.

On 02 February 2009, a decision was mailed dismissing without prejudice applicants' petition under 37 CFR 1.181 that the application be reinstated.

On 11 February 2009, applicants filed the instant submission which includes petitions under 37 CFR 1.137(b), 1.42, and 1.47(a).

DISCUSSION

Petition under 37 CFR 1.137(b)

A petition to revive the present application under 37 CFR 1.137(b) must include:

(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted a proper reply (see sections "Petition under 37 CFR 1.47(a)" and "Petition under 37 CFR 1.42" below) on 12 February 2009.

As to item (2), applicant submitted the petition fee on 12 February 2009.

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.

Petition under 37 CFR 1.47(a)

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

As to item (1), the petition fee has been charged to Deposit Account 19-4675. Thus, item (1) has been met. Items (3) and (4) have also been met. Item (2) has been met as well. It has been established that Kersten Heckmann, the legal representative of deceased inventor Markus Hecmann, was presented with a copy of the application papers including the specification. Kersten Heckmann's conduct constitutes a refusal to sign.

Petition under 37 CFR 1.42

The indication in the declaration that Markus HECKMANN is deceased has been treated as a request for status under 37 CFR 1.42.

The submission filed 11 February 2009 has been reviewed and has been found in compliance with 37 CFR 1.42. The declaration filed 11 February 2009 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, applicants' renewed petition under 37 CFR 1.137(b) is **GRANTED**.

For the reasons set forth above, applicants' renewed petition under 37 CFR 1.42 is **GRANTED**.

For the reasons set forth above, applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **11 February 2009**.

/Daniel Stemmer/

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11 MAY 2009

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Mrs. Markus Heckmann
Joh-.Seb.-Bach-Str. 34
70771 Leinfelden-Echterdingen
Germany

In re Application of
HOFMANN et al.
Application No.: 10/564,669
PCT No.: PCT/EP2004/052875
Int. Filing Date: 08 November 2004
Priority Date: 20 December 2003:
Attorney's Docket No.: 3474
For: INSERTION TOOL FOR A MACHINE TOOL

Dear Mrs. Heckmann:

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

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

/Daniel Stemmer/

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FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Wayne W. Spani	: DECISION ON REQUEST FOR
Patent Number	: 7597803	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/564,673	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **367** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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03 FEB 2006

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CANADA

In re Application of HAN	:	
U.S. Application No.: 10/564,679	:	
PCT Application No.: PCT/CA03/01958	:	DECISION
Int. Filing Date: 22 December 2003	:	
Priority Date Claimed: 26 December 2002	:	
Attorney Docket No.: 82402-6402	:	
For: DISSOLVING FILMS	:	

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 13 January 2006.

BACKGROUND

On 22 December 2003, applicant filed international application PCT/CA03/01958, which claimed priority of an earlier United States application filed 26 December 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 15 July 2004. The thirty-month period for paying the basic national fee in the United States expired on 26 June 2005.

International application PCT/CA03/01958 became abandoned as to the United States for failure to timely pay the basic national fee.

On 13 January 2006, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

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

With regard to item (3), applicant has provided the required statement.

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

CONCLUSION

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

29 NOV 2006

Mark F. Harrington
Harrington & Smith, LLP
4 Research Drive
Shelton, CT 06484-6212

In re Application of :
GABRIELSSON, et al. :
Application No.: 10/564,681 :
PCT No.: PCT/EP04/51354 : DECISION ON PETITION
Int. Filing Date: 05 July 2004 :
Priority Date: 17 July 2003 : UNDER 37 CFR 1.47(a)
Atty. Docket No.: 003D.0087.U1(US) :
For: LOCKING ELEMENT :

This decision is in response to the applicant's "PETITION UNDER 37 CFR § 1.47(a)" filed 22 September 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 05 July 2004, applicant filed international application PCT/EP04/51354 which claimed priority to an earlier application filed 17 July 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States was set to expire at midnight on 17 January 2006.

On 13 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a First preliminary amendment and an Information Disclosure Statement.

On 24 April 2006, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 22 September 2006, applicant filed the present petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of co-inventor Bart Verreydt accompanied by a petition for a three-month extension of time and payment of the extension of time fee. With the filing of the petition for an extension of time and payment of the appropriate extension 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(i), (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 items 1, 3 and 4.

As to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part: Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47... The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as Internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should include a statement of facts. It is important that the statement contain facts as opposed to conclusions.

While applicant has included a firsthand statement that the non-signing was mailed a complete set of application papers via Federal Express. Applicant has not included any tracking information including any receipt signature information to confirm that the inventor still lives as the address the packages were mailed to and actually received them. Thus, it is not possible to take the inventor's subsequent silence as a refusal to cooperate. It does not appear that any additional searching was performed to locate current contact information for the inventor.

For the reasons stated 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)" 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
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13 MAR 2007

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COMMISSIONER FOR PATENTS
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Mark F. Harrington
Harrington & Smith, LLP
4 Research Drive
Shelton, CT 06484-6212

In re Application of	:	
GABRIELSSON, et al	:	DECISION ON
PCT No.: PCT/EP04/51354	:	
Application No: 10/564,681	:	
Int. Filing Date: 05 July 2004	:	PETITION UNDER
Priority Date: 17 July 2003	:	
Attorney's Docket No.: 003D.0087.U1(US)	:	
For: LOCKING ELEMENT	:	37 CFR 1.47(a)

This decision is in response to applicant's " RENEWED PETITION UNDER 37 CFR 1.47(a)" filed on 20 December 2006 respectively in response to a decision by this Office dated 29 November 2006.

BACKGROUND

The decision by this Office dated 29 November 2006 indicated that requirement (2) under 37 CFR 1.47(a) had not been satisfied.

On 20 December 2006, petitioner submitted a "Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 29 November 2006 because Mr. Verreydt has been located and has executed the declaration.

DISCUSSION

The renewed petition states subsequent to the date of the Decision, Mr. Verreydt, was located and executed the declaration. The declaration is now signed by all the inventors.

Accordingly, the declaration submitted on 20 December 2006 complies with 37 CFR 1.497(a) and (b).

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 05 December 2006 was an error and is **VACATED** with the mailing of this decision.

CONCLUSION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **20 December 2006.**

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12 DEC 2006

SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

In re Application of	:	
BECK, Jochen et al.	:	
Application No.: 10/564,690	:	DECISION ON
PCT No.: PCT/EP04/05437	:	
Int. Filing Date: 19 May 2004	:	PETITION
Priority Date: 11 July 2003	:	
Attorney Docket No.: 19345	:	UNDER 37 CFR 1.42
For: CONTROL AND ADJUSTMENT ...	:	
MOBILE WORKING MACHINE	:	

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

BACKGROUND

On 19 May 2004, applicants filed international application PCT/EP04/05437, which claimed a priority date of 11 July 2003. A copy of the international application was transmitted to the Office by the International Bureau on 27 January 2005. The deadline for entry into the national stage in the United States was 11 January 2006.

On 11 January 2006, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 31 August 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 31 October 2006, applicants submitted a declaration of the inventors that has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

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

deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

The declaration is signed by a legal representative. The declaration must list the inventors and their citizenships and the legal representative and the legal representative's citizenship, residence and postal address. See 37 CFR 1.497. The declaration lists the information for the living inventors, and lists the information for either the deceased inventor or the legal representative, but not both. As such, the declaration does not satisfy 37 CFR 1.497(a)-(b) and 37 CFR 1.42.

CONCLUSION

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

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

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

Erin P. Thomson

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UNITED STATES PATENT AND TRADEMARK OFFICE

29 JUL 2008

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PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON CT 06340

In re Application of BARBER et al.
Application No.: 10/564,693
PCT No.: PCT/IB04/02380
Int. Filing: 13 July 2004
Priority Date: 25 July 2003
Attorney Docket No.: PC32332B
For: NICOTINAMIDE DERIVATIVES USEFUL AS PDE4 INHIBITORS

DECISION ON

PETITION TO REVIVE

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 26 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 declaration, in response to the 07 February 2007 Notification of Abandonment and 11 May 2006 Notification of Missing Requirements, has now been provided. The required petition fee of $1500 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 26 April 2007.

Cynthia M. Kratz
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Office of PCT Legal Administration

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Philip S. Johnson
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

06 FEB 2006

In re Application of	:	
GRAVES, et al.	:	
U.S. Application No.: 10/564,717	:	DECISION ON PETITION
PCT No.: PCT/GB03/05437	:	
Int. Filing Date: 11 December 2003	:	UNDER 37 CFR 1.137(b)
Priority Date: 12 December 2002	:	
Attorney Docket No.: DEP0721	:	
For: BONE RESECTION DEVICE	:	

The petition to revive under 37 CFR 1.137(b) filed 17 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 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 an executed oath or declaration of the inventors is required.

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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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,720	01/17/2006	Haruo Imawaka	Q92718	1473

65565 7590 07/18/2008
SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON, DC 20037-3213

EXAMINER	
ZUCKER, PAUL A	

ART UNIT	PAPER NUMBER
1621	

MAIL DATE	DELIVERY MODE
07/18/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUL 18 2008

SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON DC 20037-3213

In re Application of:	:	
Imawaka et al.	:	
Serial No.: 10/564,720	:	PETITION DECISION
Filed: January 17, 2006	:	
Attorney Docket No.: Q92718	:	

This is in response to the petition under 37 CFR § 1.181, filed June 13, 2008, requesting that the finality of the Office action of April 15, 2008 be withdrawn.

BACKGROUND

In brief, the examiner mailed a non-final Office action on September 13, 2007 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1-19 were pending in the application and examined on their merits. *Inter alia*, the examiner rejected claims 11-18 under 35 U.S.C. 112, first paragraph. In said rejection, the examiner stated:

> ...[The]specification, while being enabling for treatment of some neurodegenerative disorders, does not reasonably provide enablement for prevention of any disorder or treatment of disorders such as brain cancer or Down's Syndrome. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.... the breadth of the claims: In the instant case the claims are extremely broad encompassing compositions and methods for the prevention of any form of neurodegenerative condition including brain cancer in all its various forms, Down's disease or syndrome, Creutzefeld-Jacob disease, Huntington's disease, etc... (pp. 2-3, non-final Office action of September 13, 2007)

In reply to the non-final Office action of September 13, 2007, applicants filed remarks and arguments, along with an amendment on December 13, 2007.

On April 15, 2008, claims 1-10 and 19 were pending and examined. Among other rejections, the examiner rejected claim 19 under 35 U.S.C. 112, first paragraph. Specifically, the examiner indicated:

> NOTE: Claim 19 was omitted from this rejection by clerical error. Applicants should have recognized that since the limitations of claim 19 were addressed, it should have properly been included. The following rejection is therefore made FINAL. Claim 19 is finally rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for treatment of some neurodegenerative disorders, does not reasonably provide enablement for prevention of any disorder or treatment of disorders such as brain cancer or Down's Syndrome. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims

In response thereto, applicants filed this petition on June 13, 2008, requesting that the finality of the Office action of April 15, 2008 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on June 13, 2008 applicants argue that the rejection set forth by the examiner in the final Office action of April 15, 2008 was premature and improper because, as applicants allege, the examiner instituted a new ground of rejection in the final Office action upon rejecting claim 19 under 35 U.S.C. 112, first paragraph. In support of their contentions, applicants correctly indicate that the first Office action on the merits did not explicitly include claim 19 in the 35 U.S.C. 112, first paragraph, scope of enablement rejection along with claims 11-18.

> Applicants correctly indicate:
>
> The MPEP states that under current U.S. PTO practice, second or any subsequent actions on the merits shall be final, except where the Examiner introduces a new ground of rejection that is neither necessitated by Applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 C.F.R. §1.97(c) with the fee set forth in 37 C.F.R. §1.17(p). See MPEP § 706.07(a) (p. 2, Petition)
>
> Additionally, applicants state:
>
> Although the Examiner states that claim 19 was omitted from the previous enablement rejection in the Action dated September 13, 2007 due to clerical error, it remains that claim 19 was not rejected in the previous Action and the present rejection of claim 19 is a new ground of rejection that was not necessitated by Applicants' amendment. Additionally, canceled claims 11-16 were directed to an agent and canceled claims 17-18 were directed to a medicament, while claim 19 is directed to a method for preventing and/or treating a neurodegenerative disease. Thus, it was not unreasonable to consider that the Examiner would treat the different types of claims in a different manner. (p. 2, Petition).

Applicants thus assert that the examiner's rejection of claim 19 under 35 U.S.C. 112, first paragraph, in the final Office action was a new ground of rejection which was not necessitated by applicants' amendment to the claimed invention and thus argue that the Office action of April 15, 2008 was improperly made final and that said finality should be rightfully removed.

However, it is seen that claims 1-19, originally examined, were directed toward compounds and pharmaceutical compositions lacking any intended use (claims 1-10), a pharmaceutical composition useful as a preventative and/or therapeutic agent for a neurodegenerative disease (claims 11-16), a medicament (claims 17 and 18) and a method for preventing and/or treating a neurodegenerative disease (claim 19).

Thus, there was only one method claim pending at the time the first Office action was rendered; specifically claim 19. To reiterate from above, the examiner clearly indicated in the rejection made under 35 U.S.C. 112, first paragraph: "In the instant case the claims are extremely broad encompassing compositions and **methods for the prevention of any form of neurodegenerative condition** including brain cancer in all its various forms, Down's disease or syndrome, Creutzefeld-Jacob disease, Huntington's disease, etc..." (emphasis added).

The examiner provided further analysis of the scope of the claimed invention as compared with conventional knowledge regarding prevention of neurodegenerative disorders:

> ....c. the state of the prior art: the state of the prior art is such that many of the disease states recited such as brain cancer in all its various forms, Down's disease or syndrome, Creutzefeld-Jacob disease, Huntington's disease, etc. have no known treatment and no known method of prevention by pharmaceutical means. For example, there is no pharmaceutical method for the prevention of Down's syndrome, which is a genetic disorder (p. 4, non-final Office action of September 13, 2007.

Therefore, it is clear that the examiner rejected claims involving methods for prevention of any neurodegenerative condition even though the rejection did not expressly include the rejection of claim 19 upon commencement of said rejection. Analysis of the content of the rejection indicates that the examiner explicitly stated that the method claims were not enabled for their scope and provided reasons for such a finding. It is thus decided that the omission of claim 19 from the original rejection made under 35 U.S.C. 112, first paragraph, was indeed an error of clerical nature. Applicants were provided keen information in the examiner's rejection which as a whole indicates that claim 19 was, in fact, rejected under 35 U.S.C. 112, first paragraph.

Therefore, contrary to applicants' assertions, the rejection of claim 19 under 35 U.S.C. 112, first paragraph, in the final Office action rendered on April 13, 2008 is not considered to be a new ground of rejection. Applicants' arguments are not found persuasive and the final Office action mailed April 13, 2008 will not be withdrawn.

DECISION

The petition is **DENIED.**

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.

Irem Yucel
Director, Technology Center 1600

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Haruo IMAWAKA, et al.

Appln. No.: 10/564,720

Confirmation No.: 1473

Filed: January 17, 2006

Docket No: Q92718

Group Art Unit: 1621

Examiner: Paul A. Zucker

For: BRANCHED CARBOXYLIC ACID COMPOUND AND USE THEREOF

PETITION TO WITHDRAW FINALITY UNDER 37 C.F.R. § 1.181

ATTN: Technology Director
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants submit that the final Office Action dated April 15, 2008, improperly has been made final and thus respectfully solicits withdrawal of the finality of the Office Action.

Specifically, the Examiner sets forth at least one new ground of rejection which was not necessitated by Applicants' amendments nor based on information submitted in an information disclosure statement filed during the period set forth in 37 C.F.R. §1.97(c) with the fee set forth in 37 C.F.R. §1.17(p). See MPEP § 706.07(a).

Namely, the Examiner has newly rejected claim 19 for lack of enablement under 35 U.S.C. §112, 1st paragraph, and has made the Action final. This new §112, 1st paragraph rejection is a new ground of rejection, which is neither necessitated by amendment nor is it based on information submitted in an information disclosure statement filed during the period set forth

in 37 C.F.R. § 1.97(c) with the fee required in 37 C.F.R. § 1.17(p). This contravenes current practice. The MPEP states that under current U.S. PTO practice, second or any subsequent actions on the merits shall be final, **except** where the Examiner introduces a new ground of rejection that is neither necessitated by Applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 C.F.R. §1.97(c) with the fee set forth in 37 C.F.R. §1.17(p). See MPEP § 706.07(a).

The Examiner recognizes that the §112, 1st paragraph rejection is a new ground of rejection, and states that claim 19 was omitted from the previous enablement rejection in the Action dated September 13, 2007 due to clerical error. The Examiner further asserts that Applicants should have recognized that claim 19 should have been included in the §112, first paragraph, enablement rejection because the same limitations were addressed in the rejection of claims 11-18.

Applicants disagree with the Examiner's position on raising a new ground of rejection and making the Action final. Although the Examiner states that claim 19 was omitted from the previous enablement rejection in the Action dated September 13, 2007 due to clerical error, it remains that claim 19 was not rejected in the previous Action and the present rejection of claim 19 is a new ground of rejection that was not necessitated by Applicants' amendment. Additionally, canceled claims 11-16 were directed to an agent and canceled claims 17-18 were directed to a medicament, while claim 19 is directed to a method for preventing and/or treating a neurodegenerative disease. Thus, it was not unreasonable to consider that the Examiner would treat the different types of claims in a different manner.

In view of the above, since Applicants are limited in the action that can be taken after a final rejection as a matter of right, Applicants submit that making the rejection final is improper as a procedural matter for the reasons set forth above. Namely, that the Examiner has raised a new ground of rejection that is neither: (1) necessitated by Applicants' Amendment, nor (2) based on information submitted in an information disclosure statement requiring a fee under 37 C.F.R. § 1.17(p).

For the reasons discussed above, Applicants request that the finality of the Office Action be withdrawn.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

Susan J. Mack / Bruce E. Kramer Reg. No. 33,725

Susan J. Mack
Registration No. 30,951

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65565
CUSTOMER NUMBER

Date: June 13, 2008

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Alexandria, Virginia 22313-1450
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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5306

Mail Date: 04/21/2010

Applicant	: Willem Peter Blokpoel	: DECISION ON REQUEST FOR
Patent Number	: 7636978	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/564,730	: 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 **387** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Jerome J Norris
1901 Pennsylvania Avenue NW
Suite 305
Washington DC 20006

In re Application of	:	
WANG, Zheng-Pin	:	
Application No.: 10/564,740	:	DECISION
PCT No.: PCT/US03/26252	:	
Int. Filing Date: 22 August 2003	:	ON PETITION UNDER
Priority Date: 16 June 2003	:	
Docket No.: Zephan 01	:	37 CFR 1.137(b)
For: METHODS OF PREPARING A TRANSPLANTABLE PRODUCT FOR TREATMENT OF SKIN DEFECTS	:	

Applicants' "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 19 January 2006 is **GRANTED**.

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

Applicant 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 19 January 2006 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4).

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

OCT 19 2007

In re Application of
Arik Hasson al
Serial No.: 10/564,760
Filed: January 17, 2006
Attorney Docket No.: 24024-513NATL

: PETITION DECISION

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed January 17, 2006. 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.

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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14 JAN 2009

ANTHONY J. ZELANO
MILLEN, WHITE, ZELANO & BRANIGAN
ARLINGTON COURTHOUSE PLAZA 1
2200 CLARENDON BOULEVARD, SUITE 1400
ARLINGTON, VA 22201

In re Application of: ONICHTCHOUK
U.S. Application No.: 10/564,769
PCT Application No.: PCT/EP2004/007917
Int. Filing Date: 15 July 2004
Priority Date: 16 July 2003
Atty Docket No.: WEICKM-53
For: USE OF PLEITROPHIN FOR PREVENTING AND TREATING PANCREATIC DISEASES AND/OR OBESITY AND/OR METABOLIC SYNDROME

DECISION

This is in response to "Request for Withdrawal of Improper Holding of Abandonment" filed on 04 August 2008. This response is treated as a petition under 37 CFR 1.182.

BACKGROUND

On 15 July 2004, applicant filed international application number PCT/EP2004/007917, which claimed priority to an earlier European patent application filed 16 July 2003. The thirty month national stage deadline expired on 17 January 2006.

On 17 January 2006, applicant filed national stage papers in the United States Designated Office (DO/EO/US). The submission included, inter alia, the requisite basic national fee.

On 11 April 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed requiring the submission of an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

On 24 June 2008, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed indicating that the application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements mailed on 11 April 2006.

On 04 August 2008, applicant filed the present request.

DISCUSSION

Petitioner requests withdrawal of the holding of abandonment because a response allegedly was filed on 12 June 2006. Petitioner states in part that "being filed is a response to the notification to file missing requirements, a declaration and power of attorney, an assignment, a recordation cover sheet for the assignment, and sequence listing with disk". Petitioner has submitted a copy of the firm's official PTO filing record notebook for the date of 12 June 2006 with an entry "NTFMR; Decl & POA; Assign; Ck#37127 $40.00; Record Cover Sheet; seq. listing w/disk ck#37126 $65.00." as evidence of the date of submission. Petitioner also has submitted copies of checks cashed by the PTO for payment of the $65.00 surcharge fee and $40.00 recordation fee payments and a copy of the PTO Notice of Recordation of Assignment of 15 June 2006.

A review of Office records reveals that the response filed 12 June 2006 has been received but was directed to U.S. application no. 10/564,796. See "US Serial No." identification on the first page of "Response to Notification of Missing Requirements Under 35 USC 371". Accordingly, the instant request has been treated as a petition under 37 CFR 1.182 to have the 12 June 2006 response treated as being filed in the instant application. Accordingly, a petition fee of $400.00 is charged to the Deposit Account No. 13-3402.

Notwithstanding applicant's error in identifying the US application no., the response filed 12 June 2006 does identify, inter alia, the international application no. and applicant.

Accordingly, the response will be treated on petition as being directed to the instant application.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is **GRANTED** for the reasons set forth above.

The application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for processing the response filed 12 June 2006 to the Notification of Missing Requirements in accordance with this decision.

/Katherine Moran/
PCT Special Programs, Detailee
Office of PCT Legal Administration
Telephone: (571) 272-6095

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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OFFICE OF PETITIONS

In re Application of :
Adrian R. **PEPPER, et al.** :
Application No. 10/564,782 : DECISION GRANTING PETITION
Filed: January 17, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **36-1955** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 5, 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 February 13, 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 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and 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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Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

Mail Date: 04/21/2010

Applicant	: John Robert Tagg	: DECISION ON REQUEST FOR
Patent Number	: 7595041	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/564,799	: OF WYETH
Filed	: 01/13/2006	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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MORGAN, LEWIS & BOCKIUS, LLP
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO CA 94105

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OFFICE OF PETITIONS

In re Application of	:	
Deutsch et al.	:	DECISION ON PETITION
Application No. 10/564,802	:	TO WITHDRAW
Filed: April 2, 2007	:	FROM RECORD
Attorney Docket No. 067782-5001-US	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed August 13, 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 Victor E. Johnson on behalf of all attorneys of record who are associated with Customer No. 67374.

All attorneys/agents associated with Customer Number 67374 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee at the address indicated below.

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: Fusion Sport International PTY LTD
2 Henley Street
Coopers Plains, Queensland 4108 Australia

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23 FEB 2006

BELL BOYD & LLOYD LLC
P.O. Box 1135
Chicago, IL 60690-1135

In re Application of :
SECRETIN, Marie-Cristine :
U.S. Application No.: 10/564,805 :
PCT No.: PCT/EP2004/006613 :
Int. Filing Date: 18 June 2004 :
Priority Date: 23 June 2003 :
Attorney Docket No.: 112701-701 :
For: INFANT OR FOLLOW-ON FORMULA :

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 13 January 2006 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.

The declaration submitted was not executed.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $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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02 FEB 2006

Robert M. Barrett
Bell, Boyd & Lloyd, LLC
P.O. Box 1135
Chicago, Illinois 60690-1135

In re Application of	:	
FAURE, et al.	:	
Application No.: 10/564,807	:	
PCT No.: PCT/EP04/06469	:	DECISION ON PETITION
Int. Filing Date: 16 June 2004	:	
Priority Date: 23 June 2003	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 112701-700	:	
For: AMINO ACID SUPPLEMENTATION FOR A HEALTHY MICROBIOTA ECOSYSTEM	:	

The petition to revive under 37 CFR 1.137(b) filed 13 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 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 a compliant, executed oath or declaration of the inventors is required.

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

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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Mail Date: 04/21/2010

Applicant	: Kazuhiko Tsuda	: DECISION ON REQUEST FOR
Patent Number	: 7599021	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/564,818	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **489** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Ralph A. Dowell of DOWELL & DOWELL P.C.
2111 Eisenhower Ave
Suite 406
Alexandria VA 22314

In re Application of:
FROMENT, JEAN-PAUL et al.
Serial No.: 10/564,824
Filed: Jan. 18, 2006
Docket: 15293NP
Title: HEALD FRAME AND WEAVING MACHINE EQUIPPED WITH SAME

DECISION ON PETITION

This is a decision on the petition filed on Jul. 2, 2008 to withdraw the finality of the Office action of Jun. 2, 2008. The petition is being considered pursuant to 37 CFR § 1.181 and no fee is required for the petition.

The petition is **DISMISSED**.

The record shows that:

1. On Nov. 15, 2007, the examiner issued a final rejection.
2. On Mar. 11, 2008, the applicant filed amended claims and arguments, and filed an extension of time.
3. On Apr. 23, 2008, an advisory action was issued and the examiner stated that the Mar. 11, 2008 amendments did not place the application in condition for allowance because the amendments did not overcome the prior art. The examiner also indicated that the amendment will be entered for appeal purposes.
4. On May 15, 2008, the applicant submitted a Request Continued Examination (RCE) of the Mar. 11, 2008 amendments and an extension of time.
5. On Jun. 2, 2008, the examiner issued a first action final rejection of the amended claims of the RCE under MPEP 706.07(b). In the final rejection, the examiner considered and addressed the limitations and arguments of the Mar. 11, 2008 amendments. The examiner determined that the arguments were the same as the applicant's prior arguments and that the amendments added no additional limitations beyond the prior claims' limitations.
6. On Jul. 2, 2008, the present petition was filed requesting withdrawal of the finality of the Jun. 2, 2008 final rejection. The petitioner asserted that the finality of the Jun. 2, 2008 rejection was premature and that it was necessary of the examiner to consider the patentability of the Mar. 11, 2008 amended claims.

Discussion and Analysis

In the present petition, it is stated that the final rejection of Jun. 2, 2008 was premature because it was issued after the May 15, 2008 RCE. The petitioner summarized Jun. 2, 2008 final rejection, noting that the examiner determined that the Mar. 11, 2008 amended claims were drawn to the

same invention as claimed in the earlier application and that the claims could have been finally rejected on grounds of the art previously of record. The petitioner further states that it was necessary for the examiner to consider the patentability of the claims based upon the newly added amendment language. The petitioner also argues that the amendment to the claims submitted in March of 2008, which was entered upon the filing of the Request for Continued Examination, was a bona fide attempt to advance the application to issuance by further distinguishing the claim language over the prior art. Therefore, it is believed to be premature to close applicant's rights to further prosecution by issuing a Final Office Action in response to the Request for Continued Examination (RCE).

The record shows that the examiner has determined that the Mar. 11, 2008 amendment did not add any limitations which change the invention beyond what was previously claimed. In the advisory action of Apr. 23, 2008, the examiner also considered the limitations of amended claims of Mar. 11, 2008 and determined that the amended claims remain unpatentable over the same prior art of record. In the Jun. 2, 2008 final rejection, the examiner stated the claims of the amendments of Mar. 11, 2008 that were filed in connection with the May 15, 2008 RCE were drawn to the same invention as previously claimed and could have been finally rejected on the grounds and art of record of the next Office action if they had been entered in the earlier application. A comaprsion of the claims filed on Aug. 21, 2007 and the amended claims of Mar. 11, 2008 clearly shows the amendments to the claims are drawn to the same invention. The only substantial difference is that the amendment of Mar. 11, 2008 slightly varies the scope of claims 1 and 14. Thus, the examiner issued a final rejection after RCE based on the grounds of rejection and art of record pursuant to MPEP 706.07(b)[1]. The first action final rejection is proper.

Conclusion

For the foregoing reasons, the relief requested by petitioners will not be granted. Specifically, the examiner's finality of the Office action dated Jun. 2, 2008 is proper under MPEP 706.07(b).

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

The petition is dismissed.

Frederick R. Schmidt, Director
Technology Center 3700

[1] MPEP 706.07(b), paragraph 2 states: >The claims of an application for which a request for continued examination (RCE) has been filed may be finally rejected in the action immediately subsequent to the filing of the RCE (with a submission and fee under 37 CFR 1.114) where all the claims in the application after the entry of the submission under 37 CFR 1.114 (A) are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114, and (B) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to the filing of the RCE under 37 CFR 1.114.<

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

In re Application of	:	DECISION ON
STEVENSON, Adrian	:	
Application No.: 10/564,831	:	
PCT No.: PCT/GB2004 /002363	:	
Int. Filing Date: 04 June 2004	:	PETITION UNDER
Priority Date: 04 June 2003	:	
Attorney's Docket No.: 66347-136-7	:	
For: ELECTROMAGNETIC PIEZOELECTRIC	:	
ACOUSTIC SENSOR	:	37 CFR 1.137(b)

This decision is in response to applicants' "Petition Under 37 CFR 1.137(b)," filed on 17 January 2006. Applicant's Deposit Account 04-2223 is being charged $130.00 for filing an executed declaration after the date of commencement of the national stage (37 CFR 1.492(h)) as indicated in the transmittal letter.

BACKGROUND

On 04 June 2004, this international application was filed, claiming an earliest priority date of 04 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 04 December 2005. This international application became abandoned with respect to the United States at midnight on 04 December 2005 for failure to pay the required basic national fee.

On 17 January 2006, applicant filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee, an executed declaration, and the petition fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay

in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

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

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **17 January 2006.**

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

23 NOV 2007

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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

In re Application of	
WATKINS, Dave, et al.	
Application No.: 10/564,870	DECISION
PCT No.: PCT/EP2004/007159	
Int. Filing Date: 01 July 2004	ON PETITION UNDER
Priority Date: 17 July 2003	
Docket No.: 026032-4980	37 CFR 1.47(a)
For: SEAT AND METHOD FOR TILTING A SEAT	

This is a decision on applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 04 September 2007.

BACKGROUND

On 01 July 2004, applicants filed international application no. PCT/EP2004/007159, claiming a priority date of 17 July 2003. A copy of the international application was transmitted to the Office by the International Bureau on 24 February 2005. The deadline for payment of the basic national fee in the United States was 17 January 2006.

On 17 January 2006, applicants filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 02 February 2007, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration under 37 CFR 1.497(a)-(b) was required.

On 12 April 2007, applicants submitted a declaration executed by two of three inventors.

On 04 September 2007, the Office mailed Notification of a Defective Response (Form PCT/DO/EO/916), indicating that the declaration was not executed by the first named inventor.

On 04 September 2007, applicants filed this petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (1), (3) and (4) have been met. (1) The petition fee of $200 has been paid. (3) The petition

lists the last known addresses of non-signing inventor Dave Watkins as 1 Beech AV, Calegree, GB - Stockport. (4) The declaration complies with 37 CFR 1.497(a)-(b) and 1.47(a).

Item (2) has not been satisfied. Applicants are alleging that they have been unable to locate the non-signing inventor after a diligent effort. Applicants sent a copy of the application papers to the inventor's last known address two years ago and conducted a Google search in the main database for "Dave Watkins Great Britain". After the search returned 856,000 hits, applicants claim it is too burdensome to pursue it further. These efforts do not constitute a diligent effort to locate the inventor. Normally, applicants search in a white pages database and even in a main database, applicants can likely find more relevant search terms than Great Britain and Dave Watkins, so that most of the hits are not for a rugby player.

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. Extensions of time under 37 CFR 1.136(a) are available. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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

/Erin P. Thomson/

Erin P. Thomson
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2 3 MAY 2008

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

In re Application of	:	
WATKINS, Dave, et al.	:	
Application No.: 10/564,870	:	DECISION
PCT No.: PCT/EP2004/007159	:	
Int. Filing Date: 01 July 2004	:	ON PETITION UNDER
Priority Date: 17 July 2003	:	
Docket No.: 026032-4980	:	37 CFR 1.47(a)
For: SEAT AND METHOD FOR TILTING A SEAT	:	

This is a decision on applicants' renewed Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 19 March 2008.

BACKGROUND

On 23 November 2007, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicant's petition without prejudice.

On 19 March 2008, applicants filed this renewed petition under 37 CFR 1.47(a), accompanied by the fee for a two month extension of time.

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 nonsigning applicant.

Items (1), (3) and (4) were previously satisfied. (1) The petition fee of $200 has been paid. (3) The petition lists the last known addresses of non-signing inventor Dave Watkins as 1 Beech AV, Calegree, GB - Stockport. (4) The declaration complies with 37 CFR 1.497(a)-(b) and 1.47(a).

Item (2) has now been satisfied.

CONCLUSION

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

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing for continued national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **12 April 2007**.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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23 MAY 2008

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Dave Watkins
1 Beech AV,
Calegree, Stockport
United Kingdom

In re Application of
WATKINS, Dave, et al.
Application No.: 10/564,870
PCT No.: PCT/EP2004/007159
Int. Filing Date: 01 July 2004
Priority Date: 17 July 2003
Docket No.: 026032-4980
For: SEAT AND METHOD FOR TILTING A SEAT

Dear Mr. Watkins:

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/

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AUG 18 2009

OFFICE OF PETITIONS

In re Application of
Ijtsma et al.
Application No. 10/564,910
Filed: January 17, 2006
Attorney Docket No. NL040180

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 7, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 8, 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 October 9, 2008. A Notice of Abandonment was mailed February 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) an adequate statement of unintentional delay.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 2114 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Michael E. Belk
Philips Intellectual Property & Standards
345 Scarborough Road
Briarcliff Manor, New York 10510

16 MAY 2006

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

In re Application of	:	
ITOI et al.	:	
U.S. Application No.: 10/564,942	:	DECISION ON PETITION
PCT No.: PCT/JP04/10743	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 21 July 2004	:	
Priority Date: 25 July 2003	:	
Attorney Docket No.: 126218	:	
For: HUB DYNAMO	:	

This decision is in response to applicants' "Petition under 37 CFR 1.47(a)" filed 03 April 2006 to accept the application without the signature of joint-inventor, Kenji Itoi.

BACKGROUND

On 21 July 2004, applicants filed international application PCT/JP04/10743 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 thirty-month period for paying the basic national fee in the United States expired at midnight on 25 January 2006.

On 18 January 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment; and an application data sheet.

On 15 February 2006, applicants filed a declaration executed by four of the five joint-inventors.

On 03 April 2006, applicants filed the present petition under 37 CFR 1.47(a).

DISCUSSION

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

A review of the present petition reveals that applicant has satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Kenji Itoi. The steps taken by Tetsuo Hirose are sufficient to show that the nonsigning inventor refuses to execute the application. Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

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

The application will be given an international filing date of 21 July 2004 under 35 U.S.C. 363, and a date of **15 February 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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05 SEP 2006

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New York, New York 10020

In re Application of :
ZAIT et al. :
U.S. Application No.: 10/564,972 :
PCT No.: PCT/IL04/00653 : DECISION ON PETITION
Int. Filing Date: 18 July 2004 : UNDER 37 CFR 1.47(a)
Priority Date: 18 July 2003 :
Attorney Docket No.: P-8503-US :
For: METHOD FOR CORRECTING :
CRITICAL DIMENSION VARIATIONS
IN PHOTOMASKS

This decision is issued in response to applicants' "Petition under 37 CFR 1.47(a)" filed 01 August 2006 to accept the application without the signature of joint-inventor, Nikolay N. Guletsky.

BACKGROUND

On 18 July 2004, applicants filed international application PCT/IL04/00653 which claimed a priority date of 18 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 27 January 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 18 January 2006.

On 18 January 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 05 April 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 01 August 2006, applicants filed the present petition under 37 CFR 1.47(a).

DISCUSSION

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

Regarding item (2) above, petitioner states that Nikolay Guletsky has refused to sign the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

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

A review of the present petition reveals that petitioner has not shown that a bona fide attempt was made to present the application papers (specification, claims, drawings and oath/declaration) to Nikolay Guletsky. The Declarations of Doron Sieradzki states, "[o]n or about April 2006, I sent a declaration to each of the named inventors of the application to be executed in accordance with 37 CFR 1.66 or 37 CFR 1.68. . ." However, no documentary evidence to support the refusal or the attempt was provided with Doron

Sieradzki's declaration. Further, the mailing of the declaration is not considered a complete copy of the application. Lastly, declarant states that Nikolay Guletsky orally refused to sign the declaration. In situations where an oral refusal is alleged, a declaration by a person having first hand knowledge is required, i.e. Sergey Oshemkov.

As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers (specification, claims, drawings, and oath/declaration) were sent to Nikolay Guletsky. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Nikolay Guletsky under 37 CFR 1.47(a) at this time.

CONCLUSION

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

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

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

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New York, New York 10036

In re Application of
ZAIT et al.
U.S. Application No.: 10/564,972
PCT No.: PCT/IL04/00653
Int. Filing Date: 18 July 2004
Priority Date: 18 July 2003
Attorney Docket No.: P-8503-US
For: METHOD FOR CORRECTING CRITICAL DIMENSION VARIATIONS IN PHOTOMASKS

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 28 November 2006 to accept the application without the signature of joint-inventor, Nikolay N. Guletsky.

BACKGROUND

On 18 July 2004, applicants filed international application PCT/IL04/00653 which claimed a priority date of 18 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 27 January 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 18 January 2006.

On 18 January 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 05 April 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 01 August 2006, applicants filed a petition under 37 CFR 1.47(a). In a decision dated 05 September 2006, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 28 November 2006, applicants filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(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) were previously satisfied.

A review of the papers filed 28 November 2006 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor (Nikolay N. Guletsky) refused to sign, stated the last known address of the non-signing inventor (Nikolay N. Guletsky), and provided an acceptable declaration. Accordingly, all of the requirements of items (1), (2), (3), and (4) above have been satisfied.

CONCLUSION

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

The application will be given an international filing date of 18 July 2004 under 35 U.S.C. 363, and a date of 01 August 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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05 SEP 2006

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In re Application of	:	
ZAIT et al.	:	
U.S. Application No.: 10/564,972	:	
PCT No.: PCT/IL04/00653	:	DECISION ON PETITION
Int. Filing Date: 18 July 2004	:	UNDER 37 CFR 1.47(a)
Priority Date: 18 July 2003	:	
Attorney Docket No.: P-8503-US	:	
For: METHOD FOR CORRECTING CRITICAL DIMENSION VARIATIONS IN PHOTOMASKS	:	

This decision is issued in response to applicants' "Petition under 37 CFR 1.47(a)" filed 01 August 2006 to accept the application without the signature of joint-inventor, Nikolay N. Guletsky.

BACKGROUND

On 18 July 2004, applicants filed international application PCT/IL04/00653 which claimed a priority date of 18 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 27 January 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 18 January 2006.

On 18 January 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 05 April 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 01 August 2006, applicants filed the present petition under 37 CFR 1.47(a).

Received
11 SEP 2006
Pearl Cohen Zedek Latzer

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DISCUSSION

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

Regarding item (2) above, petitioner states that Nikolay Guletsky has refused to sign the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

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

A review of the present petition reveals that petitioner has not shown that a bona fide attempt was made to present the application papers (specification, claims, drawings and oath/declaration) to Nikolay Guletsky. The Declarations of Doron Sieradzki states, "[o]n or about April 2006, I sent a declaration to each of the named inventors of the application to be executed in accordance with 37 CFR 1.66 or 37 CFR 1.68. . ." However, no documentary evidence to support the refusal or the attempt was provided with Doron

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Sieradzki's declaration. Further, the mailing of the declaration is not considered a complete copy of the application. Lastly, declarant states that Nikolay Guletsky orally refused to sign the declaration. In situations where an oral refusal is alleged, a declaration by a person having first hand knowledge is required, i.e. Sergey Oshemkov.

As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers (specification, claims, drawings, and oath/declaration) were sent to Nikolay Guletsky. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Nikolay Guletsky under 37 CFR 1.47(a) at this time.

CONCLUSION

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

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

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

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In re application of	:	
LIU, Jim et al.	:	
U.S. Application No.: 10/565,024	:	
International Application No.: PCT/US03/10399	:	
International Filing Date: 04 April 2003	:	DECISION ON PETITION
Priority Date: 05 April 2002	:	UNDER 37 CFR 1.181
Attorney Docket No.:10256.204-US	:	
For: IMPROVEMENT OF STRENGTH AND ABRASION RESISTANCE OF DURABLE PRESS FINISHED CELLULOSIC MATERIALS	:	

This decision is in response to applicants' "Petition for a serial number in a national stage application" filed 18 January 2006 in the United States Patent and Trademark Office (USPTO) which has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 04 April 2003, applicants filed international application PCT/US03/10399 which claimed priority of an earlier application filed 05 April 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, 05 October 2004.

On 18 January 2006, applicants filed the instant petition asserting that a transmittal for entry into the national stage in the United States including, inter alia, the basic national fee, was filed in the USPTO on 30 September 2004. The petition is accompanied by a post card from the USPTO with a date stamp of 30 September 2004.

DISCUSSION

A post card receipt that itemizes and properly identifies the papers that are being filed serves as *prima facie* evidence of receipt in the USPTO of all items listed on the post card on the date stamped on the post card. See MPEP section 503.

In the present case, the copy of the post card presented by the petitioner has a USPTO stamped receipt date of "30 September 2004" and itemizes the following:

1. Express Mail Certificate
2. Transmittal Letter to the DO/EO/US (in duplicate)
3. Application Data Sheet
4. Executed Combined Declaration and Power of Attorney
5. Recordation Form Cover Sheet
6. Assignment
7. Information Disclosure Statement
8. Form PTO/SB/08A
9. Copy of References

Further Petitioner states that "applicants enclose all of the documents submitted on September 30 , 2004 along with the copy of the returned post card". Petitioner's statement is construed to mean that the copy of the documents submitted with the petition are true copies of those submitted on September 30, 2004. If this interpretation is incorrect, applicant must immediately notify the office of PCT Legal Administration.

Accordingly, applicants have provided *prima facie* evidence that the above identified documents had been received on 30 September 2004.

CONCLUSION

Applicant's petition is **GRANTED**.

The application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for treating the copy of the documents attached to the instant petition as filed on 30 September 2004, including according the application a date under 35 USC 371(c)(1), (c)(2), and (c)(4) of 30 September 2004

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Boris Milef
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

26 JUL 2006

Joseph S. Tripoli
Thomson Licensing Inc.
Patent Operations
PO Box 5312
Princeton, New Jersey 08543-5312

In re Application of
KNUTH, et al.
Application No.: 10/565,032
PCT No.: PCT/EP04/08096
Int. Filing Date: 20 July 2004
Priority Date: 31 July 2003
Attorney Docket No.: PD030082
For: NETWORK SUBSCRIBER STATION FOR A NETWORK OF DISTRIBUTED STATIONS, AND METHOD FOR OPERATING A NETWORK SUBSCRIBER STATION

DECISION ON REQUEST

This decision is in response to applicants' reply to Notification of Missing Requirements filed 19 June 2006 notifying the Office that the correct spelling of the first inventor's name is KURT Knuth as indicated on the declaration rather than Kurth Knuth as indicated on the published international application. Applicants' request has been treated under 37 CFR 1.181. No petition fee is due.

Petitioner states that the discrepancy between the name of the first inventor indicated in the international application during the international phase and the name of the first inventor as it appears in the declaration is the result of a typographical error. As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, applicants' explanation of the difference in the spelling of the first inventor's name is accepted and noted for the record.

For the reasons above, the request is **GRANTED**. The declaration submitted on 17 January 2006 executed by Kurt Knuth; Frank Gläser; Jens Brocke; and Ralf Köhler is accepted.

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
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OCT 10 2008

OFFICE OF PETITIONS

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET SUITE 4000
CHARLOTTE NC 28280-4000

In re Application of :
Rouviere, et al. :
Application No. 10/565,034 : ON PETITION
Filed: June 8, 2006 :
Attorney Docket No. 033339306516 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 14, 2008, and the request to withdraw the petition, filed October 1, 2008.

The petition under 37 CFR 1.181 is **DISMISSED** as moot.

The above-identified application became abandoned for failure to timely file corrected drawings in response to the Notice to File Corrected Application Papers mailed May 22, 2008. This Notice set a non-extendable period for reply of two (2) months. No corrected drawings having been received, the application became abandoned on July 23, 2008. The Office mailed a Notice of Abandonment on August 7, 2008.

In a petition to withdraw the holding of abandonment filed on August 14, 2008, petitioner states that he did not receive the Notice to File Corrected Application Papers.

However, in a paper filed October 1, 2008, petitioner requests that the petition to withdraw the holding of abandonment be withdrawn. Petitioner states that applicant wishes for the application to abandon.

In view thereof, no consideration is given to the August 14, 2008 petition to withdraw the holding of abandonment. The application remains abandoned.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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

31 JUL 2007

EASTMAN KODAK COMPANY
PATENT LEGAL STAFF
343 STATE STREET
ROCHESTER, NY 14650-2201

In re Application of	:	
MACHUEL, Gilbert et al.	:	DECISION ON
Application No.: 10/565,054	:	
PCT No.: PCT/EP03/07797	:	PETITION UNDER
Int. Filing Date: 17 July 2003	:	
Priority Date: None	:	37 CFR 1.181
Attorney's Docket No.: 89964/JLT	:	
For: Apparatus And Method For Treating Imaging Materials	:	

This communication is issued in response to applicants' "Petition For Withdrawal of Abandonment For Failure To Receive An Office Action," filed 16 May 2007. Applicants' submission has been treated as a petition under 37 CFR 1.181 requesting that the Notification of Abandonment (Form PCT/DO/EO/909), mailed 01 May 2007, be withdrawn.

BACKGROUND

On 17 July 2003, applicant filed international application PCT/EP03/07797. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 January 2006.

On 17 January 2006, 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 23 May 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 (a)-(b) and the surcharge for late filing of the oath or declaration are required.

On 01 May 2007, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the instant application is abandoned for failure to respond to the Notification of Missing Requirements mailed 23 May 2006.

On 16 May 2007, applicant submitted the instant "Petition For Withdrawal of Abandonment For Failure To Receive An Office Action," including a declaration executed by the inventors Applicant explained that the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 23 May 2006 was never received and requests that the Notification of Abandonment be rescinded.

DISCUSSION

Applicants state in the instant petition that because the "Official Action...was never received by the Petitioner and a search of the file jacket and docket records indicate that the Official Action was not received," the Notice of Abandonment, mailed 01 May 2007, should be withdrawn.

Under MPEP §711.03(c)(I)(A), a proper showing in order to establish that papers were not received must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement by the practitioner 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 and docketed (the docket record must also be referenced in practitioner's statement).

With regard to items (1) and (2), applicant has submitted the required statements. Hence, items (1) and (2) have been satisfied.

With regard to item (3), applicants have provided a copy of the docket record which purportedly shows where the paper would have been entered had it been received. However, the printout of the docket report for this specific application is not sufficient to establish that the Notification of Missing Requirements (Form PCT/DO/EO/905) was not received and misdocketed to another application. As documentary proof of non-receipt of the Office action, "if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted." MPEP §711.03(c)(I)(A). Accordingly, applicants are required to provide a docket record listing all replies due on 23 July 2006.

Thus, applicants have not provided the proper showing necessary to rescind the Notification of Abandonment (Form PCT/DO/EO/909), mailed 01 May 2007, and the petition may not be properly granted.

It is noted that the surcharge for late filing of the declaration ($130) has not been submitted.

CONCLUSION

For the reasons stated above, the petition under 37 C.F.R. 1.181 is **DISMISSED** without prejudice.

U.S. national stage application number 10/565,054 remains **ABANDONED**.

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

28 SEP 2007

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EASTMAN KODAC COMPANY
PATENT LEGAL STAFF
343 STATE STREET
ROCHESTER, NY 14650-2201

In re Application of:
MACHUEL, Gilbert et al.
U.S. Application No.: 10/565,054 : DECISION
PCT Application No.: PCT/EP03/07797 :
Int. Filing Date: 17 July 2003 : UNDER
Priority Date: None :
Atty Docket No.: 89964/JLT : 37 CFR 1.181
For: APPARATUS AND MEHOD FOR TREATING :
IMAGING MATERIALS :

This communication is issued in response to applicants' second "Petition For Withdrawal of Abandonment For Failure To Receive An Office Action," filed 16 May 2007. Applicants' submission has been treated as a petition under 37 CFR 1.181 requesting that the Notification of Abandonment (Form PCT/DO/EO/909), mailed 01 May 2007, be withdrawn.

BACKGROUND

On 17 July 2003, applicant filed international application PCT/EP03/07797. The thirty- month period for paying the basic national fee in the United States expired at midnight on 17 January 2006.

On 17 January 2006, 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 23 May 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 (a)-(b) and the surcharge for late filing of the oath or declaration are required.

On 01 May 2007, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the instant application is abandoned for failure to respond to the Notification of Missing Requirements mailed 23 May 2006.

On 16 May 2007, applicant submitted a "Petition For Withdrawal of Abandonment For Failure To Receive An Office Action," including a declaration executed by the inventors Applicant explained that the

Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 23 May 2006 was never received and requests that the Notification of Abandonment be rescinded.

On 31 July 2007, this office mailed a decision dismissing the 16 May 2007 petition.

On 13 August 2007, applicant submitted the instant renewed petition to withdraw the holding of abandonment under 37 CFR 1.181.

DISCUSSION

Applicants state in the instant petition that because the "Official Action...was never received by the Petitioner and a search of the file jacket and docket records indicate that the Official Action was not received," the Notice of Abandonment, mailed 01 May 2007, should be withdrawn.

Under MPEP §711.03(c)(I)(A), a proper showing in order to establish that papers were not received must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement by the practitioner 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 and docketed (the docket record must also be referenced in practitioner's statement).

With regard to items (1) and (2), applicant has previously submitted the required statements. Hence, items (1) and (2) have been satisfied.

With regard to item (3) above, the renewed petition includes a docket record that lists responses due to the USPTO on 23 July 2006 for all cases handled by the representative's firm. This docket record illustrates the absence of any listings of a response due to a Notification of Missing Requirements.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.181 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 of a Notification of Defective Response (Form PCT/DO/EO/916), which should indicate that the declaration filed 16 May 2007 is defective since it contains non-initialed and/or non-dated alterations.

Nini F. Legesse
PCT Detailee
Office of PCT Legal Administration

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/21/2010

Applicant	: Hideki Fukuda	: DECISION ON REQUEST FOR
Patent Number	: 7657153	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/565,057	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **995** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MARK D. SARALINO (PAN)
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1621 EUCLID AVENUE
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CLEVELAND, OH 44115

Mail Date: 05/18/2010

Applicant : Hideki Fukuda
Patent Number : 7657153
Issue Date : 02/02/2010
Application No: 10/565,057
Filed : 01/17/2006

: 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 **1030** 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).

25 JUL 2006

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ROGALSKY & WEYAND, LLP
P.O. BOX 44
LIVONIA, NY 14487

In re Application of HARDIE et al	:	
U.S. Application No.: 10/565,058	:	
PCT Application No.: PCT/GB04/03096	:	
Int. Filing Date: 16 July 2004	:	DECISION
Priority Date Claimed: 17 July 2003	:	
Attorney Docket No.: 002.00270	:	
For: METHODS FOR USE OF AN	:	
LKB1/STRAD7MO25 COMPLEX	:	

This is in response to applicant's "Request for Refund of Fees" filed 24 July 2006.

BACKGROUND

On 16 July 2004, applicant filed international application PCT/GB04/03096, which claimed priority of an earlier United Kingdom application filed 17 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 03 February 2005. The thirty-month period for paying the basic national fee in the United States expired on 17 January 2006.

On 17 January 2006, 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 21 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 and various fees must be filed.

On 24 July 2006, applicant filed the present request for refund.

DISCUSSION

37 CFR 1.26(a) provides that the Director may refund any fee paid by mistake or in excess of that required.

The present request states that applicant was mistakenly charged $400.00 for excess independent claims, $250.00 for excess total claims, and $360.00 for multiple dependent claims. In view of the preliminary amendment filed 17 January 2006, the stated fees were not required.

A review of the application file reveals that the papers filed 17 January 2006 included 89 pages of sequence listing in paper form and a sequence listing in computer readable form. Although the sequence listing in computer readable form is excluded from the page count for the application size fee under 37 CFR 1.492(j), the sequence listing in paper form is not excluded. See "Questions and Answers concerning the Patent Fee Related Provisions of the Consolidated Appropriations Act, 2005" (http://www.uspto.gov/web/patents/hr4818/qna.htm#B), ¶B10. Because the combination of the specification, drawings, and paper sequence listing totals more than 250 pages, $250.00 will be charged to Deposit Account No. 50-0772 for excess total pages.

CONCLUSION

For the reasons above, the request for refund under 37 CFR 1.26 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 16 July 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 21 June 2006.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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07 FEB 2006

Philip B. Polster, II
P.O. Box 1027
Chesterfield, MO 63006

In re Application of:	:	
HOUZEGO, Peter, John, et al.	:	DECISION ON PETITION FOR
U.S. Application No.: 10/565,064	:	REVIVAL OF ABANDONED
PCT No.: PCT/GB2004/002748	:	APPLICATION UNDER
International Filing Date: 25 June 2004	:	37 CFR 1.137(b)
Priority Date: 02 July 2003	:	
Attorney's Docket No.: PC32749A	:	
For: DISPENSING DEVICE	:	

The petition for revival under 37 CFR 1.137(b) filed 12 January 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement 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).

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

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing 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
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/13/10

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10565065 Patent No.: 7449465

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.

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

Comments: _____

/James O. Wilson/ SPE

AU 1624

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

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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28 NOV 2006

00466
YOUNG & THOMPSON
745 South 23rd Street
2nd Floor
Arlington, VA 22202

In re Application of :
KODA *et al* :
Application No.: 10/565,076 :
PCT No.: PCT/JP2004/010768 :
Int. Filing Date: 22 July 2004 : **DECISION**
Priority Date: 23 July 2003 :
Attorney Docket No.: 80481138 :
For: WRITE ONCE RECORDING MEDIUM, RECORDER AND RECORDING METHOD . . . :

This is a decision on the documents filed 01 June 2006 which are treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 18 January 2006, applicants filed papers to enter the national stage of PCT/JP2004/010768 which purportedly was accompanied by an executed declaration. The declaration was not located in the file.

On 10 May 2006, a "Notification of Missing Requirements . . ." (Form PCT/DO/EO/905) was mailed indicating that an executed declaration and surcharge fee was required. Applicants were given two months to respond with extensions available.

On 01 June 2006, applicant submitted the subject petition along with a copy of an executed declaration and the date-stamped postcard receipt for the documents filed 18 January 2006.

DISCUSSION

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed. The USPTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items

listed thereon on the date stamped thereon by the USPTO.

Applicants provided a copy of the date-stamped postcard receipt for documents submitted on 18 January 2006. The postcard receipt identified the application by the name of applicant, docket number and PCT number. The postcard receipt indicates that an "Executed Declaration" was included among the papers received in the USPTO. The postcard receipt is stamped "OIPE JAN 18 2005 " across its face.

Accordingly, applicants have provided *prima facie* evidence that an executed declaration was filed with the national stage papers on 18 January 2006.

CONCLUSION

In view of the above, the petition under 37 CFR 1.181 is hereby **GRANTED**.

The declaration originally filed 18 January 2006 is in compliance with 37 CFR 1.497(a) and (b). Accordingly, the Form PCT/DO/EO/905 mailed 10 May 2006 is **VACATED**. No surcharge fee is required.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 22 July 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 18 January 2006.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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18 SEP 2006

David S. Resnick
Nixon Peabody
100 Summer Street
Boston, MA 02110

In re Application of :
MIOUSSE, Danielle, et al. :
U.S. Application No.: 10/565,090 :
PCT No.: PCT/CA04/01045 :
Int. Filing Date: 15 July 2004 : DECISION
Priority Date: 18 July 2003 :
Attorney Docket No.: 710826-57620 :
For: NEW OXIDATION PROCESS FOR :
WATER TREATMENT :

This is a decision on applicant's "Letter to Legal Office," filed in the United States Patent and Trademark Office on 09 March 2006. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 15 July 2004, applicant filed international application PCT/CA04/01045, claiming a priority date of 18 July 2003. The international application was transmitted to the Office by the International Bureau on 27 January 2005. Accordingly, the thirty-month period for paying the basic national fee in the United States expires at midnight on 18 January 2006.

On 18 January 2006, applicant filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 09 March 2006, applicant filed this request to abandon this national phase application.

On 05 July 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

DISCUSSION

Applicant claims to have submitted two sets of papers for the national stage entry of international application number PCT/US04/01045. 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. In such a circumstance, the two entries are normally consolidated into a single application. This consolidation sometimes requires a petition under 37 CFR 1.182.

However, in this situation, applicants have not identified the other national phase entry and further have incorrectly identified this entry as the national phase of PCT/US04/01045, rather than the national phase of PCT/CA04/01045.

Further, applicant's petition for express abandonment will not be acted upon. It was signed by an attorney who has not provided a power of attorney executed by all applicants or by the assignee.

CONCLUSION

Applicant's petition under 37 CFR 1.181 for express abandonment is **DISMISSED** without prejudice.

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

This application is being returned to PCT Central Files to await a response to the Notification of Missing Requirements.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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OFFICE OF PETITIONS

In re Application of
Yuzo Kakiya et al.
Application No. 10/565,105
Filed: January 19, 2006
Attorney Docket No. 0020-5462PUS 1

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT", filed April 2, 2009. Pursuant to their duty of good faith and candor to the Office, applicants note that the 317 days of patent term adjustment as indicated on the Notice of Allowance mailed on February 2, 2009 for the above-identified application disagrees with Applicant's own calculation of patent term adjustment.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED.**

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is three hundred seven (307) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On August 11, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 317 days. Applicants do not state a basis for their disclosure that the Patent Term Adjustment on the Notice of Allowance disagrees with their calculation.

Nonetheless, a review of the record reveals that the initial determination of patent term adjustment of 317 days is incorrect.

Entry of a period of reduction pursuant to 37 CFR 1.704(c)(10) is warranted. As stated in MPEP 2732, papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations. 37 CFR 1.704(c)(10) provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the lesser of: (1) the number of days, if any, beginning on the date the amendment under 37 CFR 1.312 was filed and ending on the mailing date of the Office action or notice in response to the amendment under 37 CFR 1.312 or such other paper; or (2) four months. The phrase "lesser of ...or [f]our months" is to provide a four-month cap for a reduction under 37 CFR 1.704(c)(10) if the Office takes longer than four months to issue an Office action or notice in response to the amendment under 37 CFR 1.312 or other paper. See also, *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001).

In this instance, after the mailing of the Notice of Allowance on August 11, 2008, on January 7, 2009, applicants filed a Request for Refund filed January 7, 2009. The period of reduction is 10 days, counting the number of days in the period beginning on January 6, 2009 and ending on January 16, 2009.

In view thereof, the determination of Patent Term Adjustment at the time of the mailing of the notice of allowance should have been 307 days.

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

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

Enclosure: Copy of Revised PALM Screen

Day : Tuesday
Date: 9/15/2009

PALM INTRANET

Time: 19:09:58

PTA Calculations for Application: 10/565105			
Application Filing Date:	01/19/2006	PTO Delay (PTO):	317
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	307
PTO Delay Adjustment:	-10		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
77	09/15/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		10	
69	02/02/2009	MAIL NOTICE OF ALLOWANCE			
68	01/22/2009	ISSUE REVISION COMPLETED			
67	01/22/2009	DOCUMENT VERIFICATION			
66	01/22/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
65	01/21/2009	NOTICE OF ALLOWABILITY			
64	11/05/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	01/16/2009	EMAIL NOTIFICATION			
60	01/16/2009	MAIL REFUND DENIED			
59	01/13/2009	REFUND DENIED			
58	11/05/2008	MISCELLANEOUS INCOMING LETTER			
57	11/05/2008	REFERENCE CAPTURE ON IDS			
56	11/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	11/13/2008	DATE FORWARDED TO EXAMINER			
54	11/05/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
53	11/13/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
52	11/03/2008	FINISHED INITIAL DATA CAPTURE			
51	11/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	11/05/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
49	08/27/2008	PUBS CASE REMAND TO TC			
48	08/27/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

47	08/27/2008	PUBS CASE REMAND TO TC			
46	08/27/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	08/27/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	08/27/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	08/27/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	08/27/2008	EMAIL NOTIFICATION			
41	08/25/2008	MAIL ACKNOWLEDGEMENT OF PRIORITY PAPERS			
40	08/21/2008	ACKNOWLEDGEMENT OF PRIORITY PAPERS			
39	08/11/2008	EXPORT TO INITIAL DATA CAPTURE			
38	08/11/2008	ELECTRONIC REVIEW			
37	08/11/2008	EMAIL NOTIFICATION			
36	08/11/2008	MAIL NOTICE OF ALLOWANCE			
35	08/05/2008	ISSUE REVISION COMPLETED			
34	08/05/2008	DOCUMENT VERIFICATION			
33	08/04/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
32	08/04/2008	CASE DOCKETED TO EXAMINER IN GAU			
31	08/04/2008	NOTICE OF ALLOWABILITY			
30	06/04/2008	MISCELLANEOUS INCOMING LETTER			
29	06/04/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
28	05/22/2008	DATE FORWARDED TO EXAMINER			
27	04/30/2008	RESPONSE AFTER NON-FINAL ACTION			
26	01/31/2008	ELECTRONIC REVIEW			
25	01/30/2008	EMAIL NOTIFICATION			
24	01/30/2008	MAIL NON-FINAL REJECTION	317		-1
23	01/22/2008	NON-FINAL REJECTION			
22	04/19/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	01/19/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	10/31/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15	12/03/2007	CASE DOCKETED TO EXAMINER IN GAU			
14	10/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
11	10/23/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	10/23/2006	CASE DOCKETED TO EXAMINER IN GAU			
9.7	04/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	04/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	01/19/2006	REFERENCE CAPTURE ON IDS			
6.7	01/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	01/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	01/19/2006	371 COMPLETION DATE			
4	05/22/2006	APPLICATION DISPATCHED FROM OIPE			
3	05/22/2006	NOTICE OF DO/EO ACCEPTANCE MAILED			
2	02/08/2006	CLEARED BY OIPE CSR			
1	01/19/2006	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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In re Application of	:	
Kim	:	
Application No.: 10/565,106	:	DECISION
PCT No.: PCT/KR04/01616	:	
Int. Filing Date: 01 July 2004	:	ON
Priority Date: 01 July 2003	:	
Attorney Docket No.: 3449-0588PUS1	:	PETITION
For: Method And Apparatus For Testing Lip-Sync Of Digital Television Receiver	:	

The petition to revive under 37 CFR 1.137(b) filed 19 January 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

The declaration of the inventors filed on 19 January 2006 is defective in that it names an inventor (Chan-Ho HAN) whose name does not appear in the published international application, and the application file currently contains neither evidence that he was named as an inventor pursuant to PCT Rule 92*bis*, nor an grantable request under 37 CFR 1.497(d).

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
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11 JAN 2007
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In re Application of	:	
Kim et al.	:	
Application No.: 10/565,106	:	DECISION
PCT No.: PCT/KR04/01616	:	
Int. Filing Date: 01 July 2004	:	ON
Priority Date: 01 July 2003	:	
Attorney Docket No.: 3449-0588PUS1	:	PETITION
For: Method And Apparatus For Testing Lip-Sync Of Digital Television Receiver	:	

This is with regard to submission filed on 20 June 2006.

BACKGROUND

This international application was filed on 01 July 2004, claimed an earliest priority date of 01 July 2003, and designated the United States. 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 03 January 2006 (since 01 January 2006 was a Sunday and 02 January 2006 was a holiday). This international application became abandoned with respect to the national stage in the United States for failure to timely pay the required basic national fee.

On 19 January 2006, applicants filed a petition to revive under 37 CFR 1.137(b), which was granted in a decision mailed on 17 March 2006. With regard to the declaration of inventorship, the decision noted that

> The declaration of the inventors filed on 19 January 2006 is defective in that it names an inventor (Chan-Ho HAN) whose name does not appear in the published international application, and the application file currently contains neither evidence that he was named as an inventor pursuant to PCT Rule 92*bis*, nor a grantable request under 37 CFR 1.497(d).

On 08 May 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

DISCUSSION

The instant submission includes a declaration of the inventors which names Chan-Ho HAN and KIM, Jong Sik as inventors. Review of the published international application reveals that it nominates only "KIM, Jong-Sik," and that it does not nominate Chan-Ho HAN. However, petitioner requests acceptance of the declaration on the basis that Chan-Ho HAN was added as an inventor pursuant to PCT Rule 92*bis*. As evidence, petitioner has provided a copy of Form PCT/IB/306 showing that "HAN, Chan-Ho" has been "recorded as applicant for the United States of America and inventor for all designated States." In view of the totality of the evidence of record, it would be appropriate to accept the declaration filed on 20 June 2006 for purposes of compliance with 37 CFR 1.497(a) and (b).

The $130.00 surcharge under 37 CFR 1.492(h) is being charged to counsel's Deposit Account No. 02-2448, as authorized by the instant correspondence.

CONCLUSION

The declaration filed on 20 June 2006 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **20 June 2006**.

George Dombroske
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01/11/2007 SWASHEIR 00000001 022448 10565106
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28 FEB 2006

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GARDNER GROFF SANTOS & GREENWALD, P.C.
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA GA 30339

In re Application of	:	
SMITH, Joseph A.	:	
Application No.: 10/565,120	:	DECISION
PCT No.: PCT/US04/02750	:	
Int. Filing Date: 29 January 2004	:	ON PETITION UNDER
Priority Date: 30 January 2003	:	
Docket No.: 2S24.1-011	:	37 CFR 1.137(b)
For: MARINE HYDRO LIFT FLAPS AND METHOD OF USING SAME	:	

Applicants' "Petition For Revival of an International Application For Patent Designating the United States Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 17 January 2006 is **GRANTED**.

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

Applicant has supplied a declaration in compliance with 37 CFR 1.497(a)-(b). The fee for late filing of the search fee, examination fee or oath or declaration will be charged to deposit account no. 50-1513, as authorized.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 17 January 2006 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4).

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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EXXONMOBIL CHEMICAL COMPANY
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BAYTOWN, TX 77522-2149

Mail Date: 05/10/2010

Applicant	: Norman Yang	: DECISION ON REQUEST FOR
Patent Number	: 7652185	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/565,143	: 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 **517** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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18 SEP 2008

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In re Application of:
MIZUNO, Hitoshi, et al.
U.S. Application No.: 10/565,154
PCT No.: PCT/JP2005/002718
International Filing Date: 21 February 2005
Priority Date: 20 February 2004
Atty's Docket No.: OMY-0050
For: CONTAINER, STORING BATH AND A METHOD OF PRODUCING THE CONTAINER

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47 To Accept Declaration When Inventor Refuses To Join In Application" filed 28 August 2008. Applicants have paid the required petition fee.

BACKGROUND

On 21 February 2005, applicants filed international application PCT/JP2005/002718. The international application claimed a priority date of 20 February 2004, and it designated the United States. On 01 September 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., 20 August 2006.

On 19 January 2006, applicants' filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, a translation of the international application into English, and a declaration executed by one of the two inventors of record.

On 27 February 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance (Form PCT/DO/EO/903) identifying 19 January 2006 as the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) Requirements" and 20 August 2006 as the "Date Of Completion Of All U.S.C. 371 Requirements." On the same date, a filing receipt was mailed identifying the 35 U.S.C. 371(c) date as 19 January 2006.

On 03 June 2008, an Office Action was mailed rejecting the claims herein. The Office Action objected to the declaration in that it was not signed by both of the inventors of record.

On 28 August 2008, applicants filed the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of inventor Tsuyoshi ABE, whom applicants assert has refused to execute the application.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have provided the required petition fee, and the petition states the last known address of the non-signing inventor. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants' 19 January 2006 submission to initiate the present application included a declaration executed by one of the two inventors of record. The declaration contains an unsigned signature block for the non-signing inventor, Tsuyoshi ABE. This declaration can be accepted as having been executed by the signing inventor on his own behalf and on behalf of the non-signing inventor. Item (3) is therefore satisfied.

Regarding item (4), MPEP section 409.03(d) states that, before it can be concluded that an inventor has refused to execute the application papers, "[a] copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also states the following:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Here, applicants have provided a firsthand statement, accompanied by supporting documents, demonstrating that a request for signature, accompanied by a copy of the complete application, was delivered to the non-signing inventor at his last known address on two different occasions, and that the inventor has failed to provide the requested signature in response to these

requests. These materials provide an acceptable showing that the non-signing inventor has refused to execute the declaration. Item (4) is therefore satisfied.

CONCLUSION

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

The application is accepted without the signature of non-signing inventor Tsuyoshi ABE.

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.

Because the present decision does not effect the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4), a revised "Notification Of Acceptance" (Form PCT/DO/EO/903) and filing receipt are not required.

The application is being referred to the Group Art Unit for further processing.

Richard M. Ross
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UNITED STATES PATENT AND TRADEMARK OFFICE

18 SEP 2008

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Tsuyoshi ABE
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4-3-12, Kosuge, Katsushika-ku
Tokyo 124-0001
JAPAN

In re Application of: MIZUNO, Hitoshi, et al.
U.S. Application No.: 10/565,154
PCT No.: PCT/JP2005/002718
International Filing Date: 21 February 2005
Priority Date: 20 February 2004
Atty's Docket No.: OMY-0050
For: CONTAINER, STORING BATH AND A METHOD OF PRODUCING THE CONTAINER

Dear Mr. ABE:

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:
RADAR FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET, NW
SUITE 501
WASHINGTON, D.C. 20036

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TECHNOLOGY CENTER 3600

Oliff & Berridge, PLC
P.O. Box 320850
Alexandria, VA 22320-4850

In re application of Yujiro Miyata et al Application No. 10/565,165 Filed: January 19, 2006 For: ACTIVATION CONTROL APPARATUS FOR OCCUPANT PROTECTION APPARATUS	:	**DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)**

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed November 26, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

In light of the preliminary amendment filed November 26, 2007 with the petition, the request to participate in the PPH pilot program complies with the above requirements. Therefore, the above-identified application has been accorded "special" status.

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

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

Any inquiry regarding this decision should be directed to Steven N. Meyers, Quality Assurance Specialist, at (571) 272-6611.

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 3/5/08

09 AUG 2006

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

In re Application of ATTALI et al	:	
U.S. Application No.: 10/565,208	:	
PCT Application No.: PCT/FR04/01853	:	
Int. Filing Date: 15 July 2004	:	DECISION
Priority Date Claimed: 23 July 2003	:	
Attorney Docket No.: 017346-0190	:	
For: METHOD OF LOCATING MOBILE COMMUNICATING OBJECTS . . .	:	

This is in response to the correspondence filed 29 June 2006, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 15 July 2004, applicant filed international application PCT/FR04/01853, which claimed priority of an earlier France application filed 23 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 03 March 2005. The thirty-month period for paying the basic national fee in the United States expired on 23 January 2006.

On 20 January 2006, 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 03 May 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 29 June 2006, applicant filed the present request for status under 37 CFR 1.42 along with an executed declaration.

DISCUSSION

The declaration states that joint inventor Isabelle Attali is deceased.

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

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

The declaration fails to state the identity, citizenship, residence, and mailing address of the legal representative. Although it is apparent from the signatures that joint inventor Denis Caromel could be the legal representative of the deceased inventor, such cannot be assumed.

CONCLUSION

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

If reconsideration on the merits of the request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42".

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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Facsimile: 571-273-0459

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19 JUL 2007

FOLEY AND LARDNER LLP
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WASHINGTON, DC 20007

In re Application of ATTALI et al :
U.S. Application No.: 10/565,208 :
PCT Application No.: PCT/FR04/01853 :
Int. Filing Date: 15 July 2004 : DECISION
Priority Date Claimed: 23 July 2003 :
Attorney Docket No.: 017346-0190 :
For: METHOD OF LOCATING MOBILE :
COMMUNICATING OBJECTS . . . :

This is in response to the "Petition to Revive Application as Unavoidably Abandoned Under 37 CFR § 1.137(a) or in the Alternative as Unintentionally Abandoned Under 37 CFR § 1.137(b)" filed 17 July 2007, which is being treated under 37 CFR 1.181.

BACKGROUND

On 15 July 2004, applicant filed international application PCT/FR04/01853, which claimed priority of an earlier France application filed 23 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 03 March 2005. The thirty-month period for paying the basic national fee in the United States expired on 23 January 2006.

On 20 January 2006, 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 03 May 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 29 June 2006, applicant filed a request for status under 37 CFR 1.42 along with an executed declaration.

On 09 August 2006, this Office mailed a decision dismissing the 29 June 2006 request for status.

On 18 May 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909).

On 17 July 2007, applicant filed the present petition under 37 CFR 1.181 and a renewed request for status under 37 CFR 1.42.

DISCUSSION

The petition states that the decision mailed 09 August 2006 was never received.

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

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

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

With regard to item (3) above, the requisite docket record has not been provided. The docket record must list responses due to the USPTO on 09 October 2006 for all cases handled by the representative's firm. Such docket record must illustrate the absence of any listing of a response due to a petition decision for the present application.

A decision on the renewed request for status under 37 CFR 1.42 will be held in abeyance until a grantable petition under 37 CFR 1.181 is filed.

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

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24 OCT 2007

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In re Application of ATTALI et al	:	
U.S. Application No.: 10/565,208	:	
PCT Application No.: PCT/FR04/01853	:	
Int. Filing Date: 15 July 2004	:	DECISION
Priority Date Claimed: 23 July 2003	:	
Attorney Docket No.: 017346-0190	:	
For: METHOD OF LOCATING MOBILE COMMUNICATING OBJECTS . . .	:	

This is in response to the "Renewed Petition Under 37 CFR 1.181" filed 20 September 2007.

BACKGROUND

On 15 July 2004, applicant filed international application PCT/FR04/01853, which claimed priority of an earlier France application filed 23 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 03 March 2005. The thirty-month period for paying the basic national fee in the United States expired on 23 January 2006.

On 20 January 2006, 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 03 May 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 29 June 2006, applicant filed a request for status under 37 CFR 1.42 along with an executed declaration.

On 09 August 2006, this Office mailed a decision dismissing the 29 June 2006 request for status.

On 18 May 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909).

On 17 July 2007, applicant filed a petition under 37 CFR 1.181 and a renewed request for status under 37 CFR 1.42.

On 19 July 2007, this Office mailed a decision dismissing the 18 July 2007 petition.

On 20 September 2007, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

The petition states that the decision mailed 09 August 2006 was never received.

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that s/he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

With regard to item (1) above, applicant's representative has provided the required statement.

With regard to item (2) above, applicant's representative has provided the required statement.

With regard to item (3) above, the requisite docket record has not been provided. The docket record must list responses due to the USPTO on 09 October 2006 for all cases handled by the representative's firm. Such docket record must illustrate the absence of any listing of a response due to a petition decision for the present application. The present petition includes a docket record which lists responses due to the USPTO on 09 August 2006. However, since the decision mailed 09 August 2006 set a two month period for response, the relevant docket record date is 09 October 2006, contrary to petitioner's assertion.

A decision on the renewed request for status under 37 CFR 1.42 will be held in abeyance until a grantable petition under 37 CFR 1.181 is filed.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

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04 JAN 2008

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In re Application of ATTALI et al	:	
U.S. Application No.: 10/565,208	:	
PCT Application No.: PCT/FR04/01853	:	
Int. Filing Date: 15 July 2004	:	DECISION
Priority Date Claimed: 23 July 2003	:	
Attorney Docket No.: 017346-0190	:	
For: METHOD OF LOCATING MOBILE COMMUNICATING OBJECTS . . .	:	

This is in response to the "Reply to Decision" filed 19 December 2007, which is being treated as a renewed petition under 37 CFR 1.181.

BACKGROUND

On 15 July 2004, applicant filed international application PCT/FR04/01853, which claimed priority of an earlier France application filed 23 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 03 March 2005. The thirty-month period for paying the basic national fee in the United States expired on 23 January 2006.

On 20 January 2006, 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 03 May 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 29 June 2006, applicant filed a request for status under 37 CFR 1.42 along with an executed declaration.

On 09 August 2006, this Office mailed a decision dismissing the 29 June 2006 request for status.

On 18 May 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909).

On 17 July 2007, applicant filed a petition under 37 CFR 1.181 and a renewed request for status under 37 CFR 1.42.

On 19 July 2007, this Office mailed a decision dismissing the 18 July 2007 petition.

On 20 September 2007, applicant filed a renewed petition under 37 CFR 1.181.

On 24 October 2007, this Office mailed a decision dismissing the 20 September 2007 petition.

On 19 December 2007, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

I. Renewed Petition Under 37 CFR 1.181

The petition states that the decision mailed 09 August 2006 was never received.

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that s/he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has previously satisfied items (1) and (2) above.

With regard to item (3) above, petitioner has supplied a docket record listing responses due to the USPTO on 09 October 2006 for all cases handled by the representative's firm. Such docket record illustrates the absence of any listing of a response due to a petition decision for the present application. Thus, it can be concluded with reasonable certainty that the decision mailed 09 August 2006 was never received.

II. Renewed Request for Status Under 37 CFR 1.42

The request for status states that joint inventor Isabelle Attali is deceased.

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 17 July 2007 is in compliance with 37 CFR 1.497.

CONCLUSION

For the reasons set forth in §I above, the renewed petition under 37 CFR 1.181 is GRANTED.

For the reasons set forth in §II above, the renewed request for status under 37 CFR 1.42 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 15 July 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 17 July 2007.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
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09 FEB 2006

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

In re Application of	:	DECISION ON
Bakulesh M. KHAMAR	:	
Application No.: 10/565,211	:	
PCT No.: PCT/IB03/00860	:	
Int. Filing Date: 11 March 2003	:	PETITION UNDER
Priority Date: 13 March 2002	:	
Attorney's Docket No.: 574152000400	:	
For: PROCESS FOR MANUFACTURING ...	:	
TREATMENT OF ASTHMA	:	37 CFR 1.137(b)

This decision is in response to applicants' "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 20 January 2006.

BACKGROUND

On 11 March 2003, this international application was filed, claiming an earliest priority date of 13 March 2002.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 13 September 2004. This international application became abandoned with respect to the United States at midnight on 13 September 2004 for failure to pay the required basic national fee.

On 20 January 2006, 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 ready for continued processing by the United States Designated/Elected Office (DO/EO/US).

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
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MAY 28 2008

OFFICE OF PETITIONS

Applicant: Trygve Eiken
Appl. No.: 10/565,245
International Filing Date: April 6, 2004
Title: SUPPORT VESSEL
Attorney Docket No.: P18696USPC
Pub. No.: US 2006/0213419 A1
Pub. Date: September 28, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 27, 2007, for the above-identified application.

Applicant requests that the application be republished because the incorrect filing date was printed on the first page of the patent application publication.

The request is DISMISSED as moot.

Since the application has already issued as U.S. Patent No. 7,311,053 on December 25, 2007, the request is deemed moot. Additionally, the request for corrected publication, received on February 27, 2007, was not timely filed under 37 CFR 1.221(b). "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." [1]

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[1] 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).

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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Lucien Wende	: DECISION ON REQUEST FOR
Patent Number	: 7578426	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/565,269	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **601** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

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JAN 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Akihiro Yasuda et al	:	
Application No. 10/565,270	:	DECISION GRANTING PETITION
Filed: April 11, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P29714	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 16, 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 December 26, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2861 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

In re Application of
Adam Karlsson
Application No. 10/565,277
Filed: July 17, 2006
Attorney Docket Number: **10400-000205/US**

ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed April 9, 2007, to correct the name of the Inventor due to marriage.

The petition is **DISMISSED**.

Petitioner has requested that the inventor formerly known as Adam Karlsson be listed as Adam Morrell as the name change was effected by marriage. However while the name on the Oath or Declaration was signed as Adam Morrell, the typed name on the Oath or Declaration was Adam Karlsson and as such, with the petition is required either a substitute oath or declaration or an ADS identifying the inventor as Adam Morrell to be in compliance with 37 CFR 1.182.

Additionally, the fee for a petition under 37 CFR 1.182 is set at $400 not $130. In view thereof, petitioner's deposit account no. 08-0750 has been charged in the amount of $270.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HARNESS, DICKEY & PIERCE, PLC
P.O. BOX 8910
RESTON, VA 20195

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AUG 15 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of
Adam Morell
Application No. 10/565,277
Filed: July 17, 2006
Attorney Docket Number: **10400-000205/US**

This is a decision on the Second Renewed Petition under 37 CFR 1.182 filed July 7, 2008, to Correct the Name of the Inventor due to marriage.

The petition is **GRANTED**.

A petition filed April 9, 2007 wherein petitioner requested that the inventor formerly known as Adam Karlsson be listed as Adam Morell as the name change was effected by marriage. The petition was dismissed in a decision mailed September 17, 2007 because while the name on the Oath or Declaration was signed as Adam Morell, the typed name on the Oath or Declaration was Adam Karlsson. Petitioner was advised that either a substitute oath or declaration or an ADS identifying the inventor as Adam Morrell was required to be in compliance with 37 CFR 1.182.

The petition fee was paid with the original petition filed April 9, 2007. A Declaration identifying the inventor as Adam Morell and of how the change was effected, marriage, has been submitted in compliance with 37 CFR 1.182.

In view of the instant request, the inventor name data will be changed to Adam Morell.

This matter is being referred to Technology Center 2624 for further examination in due course.

Telephone inquiries concerning this matter should be directed to the undesigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/565,277	07/17/2006	2624	515	10400-000205/US	8	3

CONFIRMATION NO. 7965

CORRECTED FILING RECEIPT

30593
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

Date Mailed: 08/14/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Adam Morell, Lund, SWEDEN;

Power of Attorney: The patent practitioners associated with Customer Number 30593

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/SE04/01147 07/21/2004

Foreign Applications

SWEDEN 0302114-4 07/21/2003

If Required, Foreign Filing License Granted: 08/28/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/565,277**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

METHOD AND ARRANGEMENT FOR DETERMINING AN OBJECT CONTOUR

Preliminary Class

382

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

United States Patent and Trademark Office

17 MAR 2006

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www.uspto.gov

ANDERSON, KILL & OLICK, P.C.
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1182

In re Application of
Cho et al.
Application No.: 10/565,286
PCT No.: PCT/KR04/01635
Int. Filing Date: 02 July 2004
Priority Date: 02 July 2003
Attorney Docket No.: DE 1671
For: Adjuvant Formulation For Enhancing The Fungicidal Efficacy And Fungicidal Composition Containing Same

DECISION

ON

PETITION

The petition to revive under 37 CFR 1.137(b) filed 19 January 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." This statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that counsel has filed the required reply in the form of the basic national fee, and has paid the petition fee Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Counsel's Deposit Account No. 01-1944 is being charged in the amount of $65.00 for the surcharge under 37 CFR 1.492(h), as authorized by the Transmittal Letter filed 19 January 2006.

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 **19 January 2006**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
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03 FEB 2006

Timothy E. Nauman
Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue, 7th Floor
Cleveland, OH 44114-2518

In re Application of KOCHIS :
U.S. Application No.: 10/565,288 :
PCT Application No.: PCT/US04/14025 :
Int. Filing Date: 06 May 2004 : DECISION
Priority Date Claimed: 06 May 2003 :
Attorney Docket No.: AGTZ 2 00039 (II) :
For: TRACKING SYSTEM AND ASSOCIATED METHOD :

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 20 January 2006.

BACKGROUND

On 06 May 2004, applicant filed international application PCT/US04/14025, which claimed priority of an earlier United States application filed 06 May 2003. The thirty-month period for paying the basic national fee in the United States expired on 06 November 2005.

International application PCT/US04/14025 became abandoned as to the United States for failure to timely pay the basic national fee.

On 20 January 2006, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required 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 06 May 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 20 January 2006.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

07 JUN 2006
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GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY, MAI B475
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398

In re Application of	:	
Britton et al.	:	
Application No.: 10/565,296	:	DECISION
PCT No.: PCT/US04/24308	:	
Int. Filing Date: 27 July 2004	:	ON
Priority Date: 28 July 2003	:	
Attorney Docket No.: PR60351USW	:	PETITION
For: Chemical Compounds	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 20 January 2006.

BACKGROUND

This international application was filed on 27 July 2004, claimed an earlier priority date of 28 July 2003, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 28 January 2006. Applicants filed *inter alia* the basic national fee and the instant petition on 20 January 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.

Regarding requirement (1), the $200.00 petition fee is being charged to Deposit Account No. 07-1392, per the Transmittal Letter filed on 20 January 2006.

Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor Jonathan Britton be excused because he "cannot be found or reached despite diligent efforts." Counsel's attention is respectfully drawn to MPEP 409.03(d), which states in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37

> CFR 1.47. 37 CFR 1.43 may be available under these circumstances. See MPEP § 409.02. Such a petition under 37 CFR 1.47 will be dismissed as inappropriate. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included >in the< statement of facts. It is important that the statement contain facts as opposed to conclusions.

To support the request for relief on the basis that Mr. Britton allegedly cannot be found or reached after diligent effort, counsel states that GSK sent certain correspondence to Mr. Britton's last known address on 22 September 2004, allegedly including a copy of the application and a declaration. Counsel further states that GSK sent correspondence to Mr. Britton's attorney on October 13, 2004, allegedly including a copy of the application and a declaration. Although petitioner has included copies of letters sent to Mr. Britton and to Keith O. Gregory, Esq., as well as DHL "tracking results" for correspondence sent to Mr. Britton, the petition lacks a statement of the pertinent facts by a person having first-hand knowledge of the facts recounted (since the correspondence was allegedly sent by GSK, not petitioner). It should also be noted that the letter to Keith Gregory accompanying the petition does not state that a complete copy of the application (specification, claims and drawings) was enclosed; instead, it merely referred to a "specification."

Petitioner characterizes the return correspondence received from the office of Keith Gregory as stating that the law office as "no longer aware of the whereabouts of Mr. Britton," but the copy of the letter accompanying the petition merely states that the law office had "lost contact with this client," not that his location was unknown. Although counsel's petition for relief is made on the basis that Mr. Britton cannot be found or reached after diligent effort, the petition does not recount any additional efforts which may have been undertaken to attempt to locate him, such as internet searches, telephone directory searches or skip trace searches, much less provide any documentary evidence of such searches. Based on the totality of the present record, it would not be appropriate to conclude that Mr. Britton "could not be found or reached after diligent effort" within the meaning of 37 CFR 1.47(a).

The petition further states that "In the alternative, Applicant requests that this Petition be accepted under 35 U.S.C. § 118" on the basis of potential irreparable harm to GSK, to whom "Mr. Britton was and is [allegedly] under an obligation to assign the above-referenced patent application." 35 U.S.C. 118 provides that

> Whenever an inventor refuses to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom the 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 the inventor on proof of the pertinent facts and a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage; and the Director may grant a patent to such inventor upon such notice to him as the Director deems sufficient, and on compliance with such regulations as he prescribes.

Although counsel seeks "alternative" relief under 35 U.S.C. 118, that statute specifically empowers the Director to "grant a patent to such inventor upon such notice to him as the

Director deems sufficient, and on compliance with such regulations as he prescribes." The specific regulation prescribed by the Director and pertinent to the fact pattern at hand is 37 CFR 1.47(a). Therefore, no "alternative" venue for relief is available under 35 U.S.C. 118.

Regarding requirement (3), the petition includes a statement the last known addresses of Mr. Britton. Accordingly, requirement (3) has been satisfied.

Regarding requirement (4), inspection of the declaration filed on 20 January 2006 reveals that it nominates an inventor named "KATAMREDDY," whereas the published international application nominates an inventor named "KALAMREDDY." No explanation of this discrepancy appears to be present in the application file. As such, it would not be appropriate to accept said declaration at this time. Accordingly, requirement (4) has not been satisfied.

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

The $200.00 petition fee is being charged to counsel's Deposit Account No. 07-1392, as authorized by the Transmittal Letter filed on 20 January 2006.

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.

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

George M. Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

United States Patent and Trademark Office

10 JAN 2007

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CORPORATE INTELLECTUAL PROPERTY, MAI B475
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398

In re Application of	:	
Britton et al.	:	
Application No.: 10/565,296	:	DECISION
PCT No.: PCT/US04/24308	:	
Int. Filing Date: 27 July 2004	:	ON
Priority Date: 28 July 2003	:	
Attorney Docket No.: PR60351USW	:	PETITION
For: Chemical Compounds	:	

This is in response to the petition to withdraw the holding of abandonment and the renewed petition under 37 CFR 1.47(a) filed on 07 September 2006.

DISCUSSION

Petition To Withdraw Holding Of Abandonment

On 14 August 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with regard to the national stage in the United States "Per decision from Legal Department dated 07 June 2006." Petitioner argues that the holding of abandonment was inappropriate. Review of the Decision on Petition mailed on 07 June 2006 reveals that its two-month period for response was explicitly extendable pursuant to 37 CFR 1.136(a). As such, the Notification of Abandonment was issued prematurely, and it is hereby **VACATED**.

Renewed Petition Under 37 CFR 1.47(a)

The Decision on Petition mailed on 07 June 2006 dismissed the petition under 37 CFR 1.47(a) filed on 20 January 2006, without prejudice. In response, petitioner now indicates that "after renewed efforts, co-inventor Jonathan Britton has been located. Mr. Britton has now executed a combined Declaration and Power of Attorney for the instant Application. Said Declaration is submitted concurrently with this Response." In view of the declaration executed by Mr. Britton, the petition under 37 CFR 1.47(a) is MOOT.

The declaration filed on 07 September 2006 satisfies the requirements of 37 CFR 1.497(a) and (b). However, the declaration is otherwise defective because it includes an un-initialed alteration to Mr. Britton's city of residence. Therefore, despite the fact that the declaration is acceptable for purposes of 37 CFR 1.497(a) and (b) and 35 U.S.C. 371(c)(4), counsel is required to file a new declaration curing the defect noted above.

Regarding the issue of the spelling of joint inventor Katamreddy's surname, petitioner indicates that the discrepancy arose because the name "was initially misspelled during the international application," and provides a copy of Form PCT/IB/306 showing that the surname was corrected to "KATAMREDDY" pursuant to PCT Rule 92*bis*. Accordingly, it would now be appropriate to accept the spelling as "Katamreddy."

It is noted that the $200.00 petition fee was never charged to counsel's Deposit Account, despite the indication in the Decision mailed on 07 June 2006 that it was being charged at that time. Therefore, it is being charged to counsel's Deposit Account No. 07-1392 at this time.

DECISION

The petition to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**, without prejudice.

Applicant is required to file an acceptable oath or declaration of the inventors 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). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

George Dombroske
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01/10/2007 SBASHEIR 00000002 071392 10565296
01 FC:1463 200.00 DA

27 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

In re Application of LEE et al.	:
Application No.: 10/565,313	: DECISION ON PETITION
PCT No.: PCT/SG04/00215	:
Int. Filing: 16 July 2004	: UNDER 37 CFR 1.47(a)
Priority Date: 18 July 2003	:
Attorney Docket No.: DR10/012	:
For: MESSAGE SYSTEM	:

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 08 December 2006, to accept the application without the signatures of joint inventors, KING HOE GOH and FRANCIS YEW HONG LEE.

BACKGROUND

On 18 January 2006, 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 09 June 2006, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) was required.

On 08 December 2006, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signatures of inventors alleging that Mr Goh and Mr. Lee are unavailable to sign the application.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

The petition included the requisite petition fee, satisfying Item (1). Item (3) is satisfied because the last known addresses of non-signing inventors were provided. With regard to item (4), the declaration executed by the available joint inventors on their behalf and on behalf of the non-signing inventors was submitted and satisfies the requirements of 37 CFR 1.47(a).

With respect to Item (2) above, Petitioner provided the affidavit of the joint inventors in support of the petition under 37 CFR 1.47(a). The inventors merely state that they "*have been informed by StarHub...* that a diligent effort has been made on our behalf by StarHub to contact

the co-inventors Goh King Hoe by registered post at his last known address....[and that] An inventor's declaration was also sent to Mr. Francis Yew Hong Lee by registered post at his last known address..However, StarHub Ltd was unable to obtain the necessary signatures of Mr. Goh and Mr. Lee.". This is not a statement of first hand knowledge nor does it detail the efforts made to locate the nonsigning inventors or their refusal to sign the application papers. The statement is accompanied by a copy of a letter sent to the non-signing inventors, indicating that only a declaration and assignment document were enclosed.

Refusal to Sign the Application

Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal, states, in pertinent part:

> *A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers.* A copy of the application papers should be sent to the last known address of the nonsigning inventor, or , if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.... *It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956)
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in a statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

(Emphasis added.)

Here, Petitioner did not present a complete copy of the application papers including specification, claims and drawings and oath or declaration to the non-signing inventors for their

signatures. Where the non-signing inventors' conduct constitutes a refusal, a statement of facts based upon first hand knowledge in support of the petition should be submitted.

Inability to Locate or Reach Non-signing Inventors

As indicated in the MPEP Section 409.03(d), where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

In the instant petition, Petitioner did not demonstrate what "diligent efforts" were undertaken to locate the nonsigning inventors to obtain their signatures on the declaration. No further efforts to locate the nonsigning inventors were attempted and detailed in a first hand statement of facts. A statement by the person with first hand knowledge, which fully describes the exact facts relied on to establish that a diligent effort was made, is required. The diligent efforts to locate the nonsigning inventors were not pursued and documented such as Internet searches, contact with the joint inventors to obtain the nonsigning inventors' current address, current email address and/or current employer. No attempt to reach the nonsigning inventors by telephone was made. No request from the Postal Service for their forwarding address was made.

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a "diligent effort" was made. Petitioner's statement of facts under 37 CFR 1.47(a) does not indicate that any search for the nonsigning inventors' new address was made. Since no attempts to locate the inventors were documented, it can not be concluded that "a diligent effort" was made to locate the non-signing inventors.

The action taken by petitioner is not sufficient to prove that "a diligent effort" was made to contact the nonsigning inventors. Under these circumstances, it cannot be concluded that then nonsigning inventors are unavailable to sign the application.

In sum, Petitioner has satisfied Items (1), (3) and (4) above. Petitioner has not satisfied Item (2) by demonstrating: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/565,313 (specification, including claims, drawings, and declaration) to the nonsigning inventors for their signature and their refusal to sign these documents and (2) that "a diligent effort" was made to contact or locate the nonsigning inventors. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

For the reasons set forth above, the evidence submitted does not support a finding that the nonsigning inventor refuses to sign the application at this time. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile (571) 272-0459

30 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

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

In re Application of LEE et al.
Application No.: 10/565,313
PCT No.: PCT/SG04/00215
Int. Filing: 16 July 2004
Priority Date: 18 July 2003
Attorney Docket No.: DR10/012
For: MESSAGE SYSTEM

: DECISION ON
: RENEWED PETITION
:: UNDER 37 CFR 1.47(a)

This is a decision on applicant's renewed petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 25 May 2007, to accept the application without the signatures of joint inventors, KING HOE GOH and FRANCIS YEW HONG LEE.

BACKGROUND

On 18 January 2006, 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 09 June 2006, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) was required.

On 08 December 2006, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signatures of inventors alleging that Mr Goh and Mr. Lee are unavailable to sign the application.

On 27 March 2007, a decision was mailed to applicant dismissing the petition indicating that applicant had not demonstrated that a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/565,313 (specification, including claims, drawings, and declaration) to the nonsigning inventors for their signature and their refusal to sign these documents.

On 25 May 2007, applicant filed a renewed petition along with declarations executed by the previously non-signing inventors.

DISCUSSION

A review of the declarations reveals that the declarations identify and are executed by each of the previously nonsigning inventors, and state the residency, citizenship and mailing address of each inventor. Thus, the declarations are acceptable and the requirements of 37 CFR 1.497(a) and (b).

The renewed petition under 37 CFR 1.47(a) is considered moot as a declarations executed by the previously unavailable inventors has now been submitted and are acceptable under 37 CFR 1.497(a) and (b).

CONCLUSION

For the above reasons, the renewed petition under 37 CFR 1.47(a) is considered **MOOT**. The declarations executed by the joint inventors and submitted on 02 November 2006 is in compliance with 37 CFR 1.497(a) and (b) and are acceptable.

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 25 May 2007.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile (571) 272-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

COPY MAILED

FEB 0 4 2008

OFFICE OF PETITIONS

In re Application of :

HAASE, Wolfgang :
Application No. 10/565,318 : DECISION ON PETITION
Filed: February 01, 2006 : TO WITHDRAW
Attorney Docket No. **F-8922** : 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 26, 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 C. Bruce Hamburg on behalf of all attorneys of record who are associate. 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 inventor Wolfgang Haase at 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: **WOLFGANG HAASE**
AUCHTERTWEG 1
EBERSBACH/FILS 73061
GERMANY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JAMES V. COSTIGAN
HEDMAN & COSTIGAN
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2601

MAILED

FEB 24 2009

OFFICE OF PETITIONS

In re Application of
Gianpiero Mastinu et al
Application No. 10/565,338
Filed: January 19, 2006
Attorney Docket No. 163-679

DECISION ON PETITION

This is a decision on the petition, filed January 21, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply in a timely manner to the nonfinal Office action mailed December 31, 2007 and on May 16, 2008. A Notice of Abandonment was mailed on January 9, 2009.

Petitioner asserts that the Notice of Non-Compliant Amendment mailed May 16, 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 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 Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy item (2). Petitioner provided no evidence to indicate a search of the file jacket.

Accordingly, absent the required evidence to establish nonreceipt of the Office action of May 16, 2008, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,620.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

It is noted that petitioner filed the instant petition with the heading " Petition To Revive Under 37 CFR 1.137(b)," and also, mentioned that the abandonment was unavoidable. However, no fee

for a petition was provided. Therefore, in view of the body of the petition and no fee submitted, the petition is being construed as a petition to withdraw holding of abandonment under 37 CFR 1.181 (no fee).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAMES V. COSTIGAN
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NEW YORK NY 10036-2601

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MAR 25 2009

OFFICE OF PETITIONS

In re Application of
Gianpiero Mastinu et al
Application No. 10/565,338
Filed: January 19, 2006
Attorney Docket No. 163-679

DECISION ON PETITION

This is a decision on the renewed petition, filed March 5, 2009, 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 file a proper reply to the nonfinal Office action mailed December 31, 2007 and the Notice mailed May 16, 2008. A Notice of Abandonment was mailed on January 9, 2009.

Petitioner asserts that the Notice of Non-Compliant Amendment mailed May 16, 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 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.

This application is being referred to Technology Center AU 2855 for appropriate action by the Examiner in the normal course of business on the reply received January 21, 2009.

Karen Creasy
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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PATREA L. PABST
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400 COLONY SQUARE, SUITE 1200
1201 PEACHTREE STREET
ATLANTA GA 30361

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MAY 16 2008

OFFICE OF PETITIONS

In re Application of :
HIRSH, Jane et al. :
Application No. 10/565,346 : DECISION ON PETITION
Filed: January 20, 2006 : TO WITHDRAW
Attorney Docket No. **CP115** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 16, 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, client has transferred this application, does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **DANA M. GORDON, PH. D.**
FOLEY HOAG LLP
155 SEAPORT BOULEVARD
BOSTON, MA 02210

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SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

Mail Date: 04/27/2010

Applicant	: Alexandr Chernyshov	: DECISION ON REQUEST FOR
Patent Number	: 7604870	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/565,349	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **831** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Alexandria, Virginia 22313-1450
www.uspto.gov

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

Mail Date: 04/21/2010

Applicant	: Takashi Kikukawa	: DECISION ON REQUEST FOR
Patent Number	: 7573803	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/565,351	: 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 **766** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

Mail Date: 04/21/2010

Applicant	: Daisuke Higashihara	: DECISION ON REQUEST FOR
Patent Number	: 7596238	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/565,357	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **313** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

Mail Date: 05/18/2010

Applicant : Daisuke Higashihara
Patent Number : 7596238
Issue Date : 09/29/2009
Application No: 10/565,357
Filed : 01/22/2007

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **388** 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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KERRIE A LABA
CARLSON GASKEY & OLDS
SUITE 350
400 WEST MAPLE ROAD
BIRMINGHAM MI 48009

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SEP 12 2008

OFFICE OF PETITIONS

In re Application of :
Miller et al. :
Application Number: 10/565382 : ON PETITION
Filing Date: 01/20/2006 :
Attorney Docket Number: 60,469-253;OT-5210 LAB :

This is a decision in reference to the "REQUEST TO WITHDRAW NOTICE OF ABANDONMENT," filed on July 7, 2008, which is treated as a petition under 37 CFR 1.181.

The petition is **DISMISSED**.

This application became abandoned on February 10, 2008, for failure to timely submit an appeal brief in response to the Notice of Patent Decision from Pre-Appeal Brief Review mailed on January 9, 2008, which set a one (1) month period for reply. On February 11, 2008, one page entitled "AFTER FINAL AMENDMENT," was received. On June 27, 2008, Notice of Abandonment was mailed.

Petitioner asserts that an after final amendment was filed on February 11, 2008, and that the examiner had agreed, during a telephone interview held after the mailing of the Notice of Patent Decision from Pre-Appeal Brief Review mailed on January 9, 2008, that the case would be allowed if claims were amended as they are presented in the after final amendment.

Petitioners further assert that a complete amendment after final rejection was filed by facsimile on February 11, 2008. In support, petitioners have provided a copy of the USPTO Auto-Reply Facsimile Transmission cover sheet, showing the first page of the after final amendment, and stating that nine (9) pages (including the cover page) were received on February 11, 2008. A copy of the eight (8) page amendment has also been provided.

37 CFR 1.8(b) states:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition lacks item (3). Petitioner has not provided a statement by the person who signed the Certificate of Facsimile Transmission which attests on a personal knowledge basis to the previous timely mailing or transmission. Petitioners should provide a statement by Theresa M. Palmateer, the person who signed the Certificate of Facsimile Transmission dated February 11, 2008.

Additionally, assuming, *arguendo*, petitioner's response is considered timely filed:

37 CFR 1.135 states, in pertinent part.

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
>
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the

> condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

In this regard, the Notice of Panel Decision from Pre-Appeal Brief Review mailed on January 9, 2008, stated, *inter alia*, that the application remains under appeal, and that the time for filing an appeal brief runs from one (1) month from the mailing date of this decision.

37 CFR 41.37(a)(1) states that appellant must file a brief under this section within two months from the date of filing the notice of appeal under § 41.31. 37 CFR 41.37(b) states that on failure to file the brief, accompanied by the requisite fee, within the period specified in paragraph (a) of this section, the appeal will stand dismissed.

MPEP 1205.01 states, in pertinent part:

> If the time for filing a brief has passed and the application has consequently become abandoned, the applicant may petition to revive the application under 37 CFR 1.137, as in other cases of abandonment. See MPEP § 711.03(c). … In addition to the petition and petition fee, appellant must file:
>
> (A) A request for continued examination (RCE) under 37 CFR 1.114 accompanied by a submission (i.e., a reply under 37 CFR 1.111) and the fee as set forth in 37 CFR 1.17(e) if the application is a utility or plant application filed on or after June 8, 1995, or a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application); or
>
> (B) An appeal brief and the appeal brief fee to reinstate the appeal. A proper brief and the required fee must be filed before the petition will be considered on its merits.

37 CFR 1.2 states that the action of the U.S. 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. Moreover 37 CFR 1.116 is manifest that

the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or reexamination proceeding from its condition as subject to appeal or to save the application from abandonment under § 1.135.

The showing of record is that petitioners did not timely file a proper reply to the Notice of Panel Decision from Pre-Appeal Brief Review mailed on January 9, 2008. To this end, an amendment after final rejection is not a proper response to the Notice of Panel Decision from Pre-Appeal Brief Review mailed on January 9, 2008. As such, the application became abandoned as a matter of law for failure to timely and properly reply to the Notice of Panel Decision from Pre-Appeal Brief Review mailed on January 9, 2008.

Abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action.[1] The rule clearly indicates that the mere filing of an amendment does not save the application from abandonment. Only the filing of an Appeal Brief, Request for Continued Examination and submission under 37 CFR 1.114, or continuing application guarantees the pendency of the application, not filing an amendment after final rejection. Thus, the application became abandoned due to petitioner's failure to file an Appeal Brief, RCE and submission, or continuing application prior to the period for reply to the Notice of Panel Decision from Pre-Appeal Brief Review mailed on January 9, 2008, and not because of any error on the part of the Office.

Further, the official written record contains no indication that the examiner had agreed to accept an amendment after final rejection in lieu of the reply required by the Notice of Panel Decision from Pre-Appeal Brief Review mailed on January 9, 2008.

To this end, 37 CFR 1.2 states that the action of the U.S. 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.

---

[1] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-300 (CCPA 1964); Krahn v. Commissionerr, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

In summary, to the extent that petitioner's counsel believed that the examiner had agreed that an Appeal Brief, RCE and submission, or continuing application were not required, and that an amendment after final rejection was a proper submission, there is no showing in the written record to support that allegation. As MPEP 711.03(c) states, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicants' reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicants of any deficiency in sufficient time to permit the applicant to take corrective action.[2]

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 applicant is bound by the consequences of those actions or inactions.[3] 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.[4]

As such, the showing of record is that the abandonment resulted from the failure of petitioners to file a timely and proper response to the Notice of Panel Decision from Pre-Appeal Brief Review mailed on January 9, 2008, rather than an error on the part of the USPTO.

As such the application is properly held abandoned.

The petition is **DISMISSED.**

Petitioner may wish to consider filing a petition to revive under 37 C.F.R. 1.137(b).

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision.

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[2] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

[3] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[4] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N. 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).

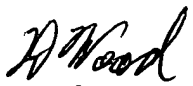
Further correspondence with respect to this matter should be addressed as follows:

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

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BIRMINGHAM MI 48009

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OCT 15 2008

OFFICE OF PETITIONS

In re Application of :
Miller et al. :
Application Number: 10/565382 : DECISION ON PETITION
Filing Date: 01/20/2006 :
Attorney Docket Number: 60,469-253;OT-5210 LAB :

This is a decision on the petition filed on September 25, 2008, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on February 10, 2008, for failure to timely submit an appeal brief in response to the Notice of Patent Decision from Pre-Appeal Brief Review mailed on January 9, 2008, which set a one (1) month period for reply. On June 27, 2008, Notice of Abandonment was mailed. On July 7, 2008, a petition to withdraw the holding of abandonment was filed. On September 12, 2008, the petition was dismissed.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The 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)).

Petitioner has filed a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This application is being referred to Technology Center Art Unit 3654 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Kerrie A Laba
Carlson Gaskey & Olds
Suite 350
400 West Maple Road
Birmingham, MI 48009

Mail Date: 04/21/2010

Applicant	: Robin Mihekun Miller	: DECISION ON REQUEST FOR
Patent Number	: 7621379	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/565,382	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, NW
Washington DC 20005

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FEB 01 2010

In re Application of	:	
RUTYNOWSKI, Wlodzimierz	:	
Application No. 10/565,395	:	DECISION ON PETITION
Filed: July 05, 2006	:	TO WITHDRAW
Attorney Docket No. 541114-0325045(POL0010-US	:	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 December 11, 2009.

The request is **NOT APPROVED.**

A review of the file record indicates that Customer No. 36183 does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **HTL SPOLKA AKCYJNA**
UL. DANISZEWSKA 4, 03-230
WARSAW, POLAND 03-230

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20 DEC 2006

32425
FULBRIGHT & JAWORSKI LLP
600 Congress Ave.
Suite 2400
Austin, TX 78701

In re Application of :
SIMMONS *et al* :
U.S. Application No.: 10/565,415 :
PCT No.: PCT/US04/24013 :
Int. Filing Date: 26 July 2004 : **DECISION**
Priority Date: 25 July 2003 :
Attorney Docket No.: UTSG263US :
For: COMPOSITIONS AND METHODS FOR :
HERPES SIMPLEX PROPHYLAXIS :
AND TREATMENT :

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 14 September 2006.

BACKGROUND

On 14 February 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 14 September 2006, applicants filed a response which was accompanied by, *inter alia*, the subject petition, a declaration signed by one of the two named inventors; a declaration by Collin Evans; a five-month extension and fee; the petition fee of $200.00; and the $130.00 surcharge fee.

DISCUSSION

Applicants claim that they have been unable to locate a joint inventor, Jianmin Chen and have 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 has been paid.

With regards to item (3), the last known address of co-inventor Jianmin Chen is listed as:

U.T Medical Branch at Galveston
Virology - Department of Pediatrics
301 University Blvd. MS 372
Galveston, TX 77555

Thus, both items are complete.

Regarding item (2), applicants' 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 . . .

The 37 CFR 1.47(a) applicant has not met the requirements of proving that a diligent effort was made to contact the nonsigning co-inventor. While an internet search on Google was performed (and documentary evidence provided), no further attempt was identified.

Petitioners should attempt to determine if Mr. Chen's former employer at the University of Texas Medical Branch (or former co-workers) have further information concerning his whereabouts. It is highly unlikely that Mr. Chen left no information with his employer. Moreover, a telephone search should also be made. These efforts are not extraordinary and should be made to demonstrate that a diligent effort was made to locate the nonsigning joint inventor.

For the reasons noted above, item (2) of 37 CFR 1.47(a) is not yet satisfied.

Concerning item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by one of the two co-inventors on behalf of themselves and the nonsigning joint inventor. However, it appears that the second page of the declaration is missing and the citizenship of the inventors are not recorded on the declaration. As such, this declaration fails to comply with 37 CFR 1.497(a) and (b). Applicants need to submit a complete declaration signed by the inventor in the signature block of page two of the declaration. A notary is not required. For these reasons, item (4) is also not satisfied.

All requirements of 37 CFR 1.47(a) are not yet satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are authorized under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

23 MAY 2007

Commissioner for Patents
United States Patent and Trademark Office
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32425
FULBRIGHT & JAWORSKI LLP
600 Congress Ave.
Suite 2400
Austin, TX 78701

In re Application of :
SIMMONS *et al* :
U.S. Application No.: 10/565,415 :
PCT No.: PCT/US04/24013 :
Int. Filing Date: 26 July 2004 : **DECISION**
Priority Date: 25 July 2003 :
Attorney Docket No.: UTSG263US :
For: COMPOSITIONS AND METHODS FOR :
HERPES SIMPLEX PROPHYLAXIS :
AND TREATMENT :

This decision is in response to applicants' renewed petition under 37 CFR 1.47(a) filed 20 February 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 20 February 2007, applicants filed the renewed petition which was accompanied by, *inter alia*, an affidavit by Collin Evans and exhibits A - D.

DISCUSSION

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventors. Items (1) and (3) were completed in the initial petition.

Regarding item (2), applicants' further efforts have shown that a diligent effort was made to locate the nonsigning inventor. Documentary evidence was provided. As such, item (2) of 37 CFR 1.47(a) is now satisfied.

Concerning item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by one of the two co-inventors on behalf of themselves and the nonsigning joint inventor. This declaration complies with 37 CFR 1.497(a) and (b). Item (4) is also satisfied.

All requirements 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 26 July 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 20 February 2007.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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9 FEB 2006

Clark & Brody
1090 Vermont Avenue, NW
Suite 250
Washington, D.C. 20005

In re Application of
HOUMMADY, Moussa
Application No.: 10/565,432
PCT No.: PCT/FR03/01843
Int. Filing Date: 17 June 2003
Priority Date: None
Attorney Docket No.: 11016-0058
For: DEVICE FOR REMOVING AND DEPOSITING DROPLETS OF AT LEAST ONE LIQUID . . .

DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 20 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 $65 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

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JOHN H. THOMAS
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RICHMOND, VA 23226

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OFFICE OF PETITIONS

In re Application of :
Robert A. Dane et al :
Application No. 10/565,449 : ON PETITION
Filed: August 1, 2006 :
Attorney Docket No. SOLAR 1 :

This is a decision on the "Petition for Change the Order of Inventors' Names" under 37 CFR 1.182 filed March 24, 2008.

The petition is **GRANTED.**

The order of the names of the inventors has been changed to the following:

1. Robert A. Dane
2. Payne Kilbourn

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/565,449	08/01/2006	3617	1080	SOLAR 1	16	1

CONFIRMATION NO. 9828

CORRECTED FILING RECEIPT

John H Thomas
536 Granite Avenue
Richmond, VA 23226

OC000000030303326

Date Mailed: 06/04/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Robert A. Dane, Greenwich, AUSTRALIA;
Payne Kilbourn, King George, VA;

Power of Attorney:
John Thomas--33460
Alexander Raring--52502

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/AU04/01014 07/30/2004

Foreign Applications
AUSTRALIA 2003903968 07/31/2003
AUSTRALIA 2004902116 04/21/2004

If Required, Foreign Filing License Granted: 11/25/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/565,449**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Unmanned ocean vehicle

Preliminary Class

114

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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SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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DEC 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Yves AUBERSON, et al	:	
Application No. 10/565,456	:	DECISION ON PETITION
Filed: July 10, 2006	:	TO WITHDRAW
Attorney Docket No. 093286-0106	:	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 October 15, 2009.

The request is **NOT APPROVED because it is moot**.

A review of the file record indicates that the power of attorney to Rouget F. Henschel and the attorneys associated with Customer No. 22428, has been revoked by the assignee of the patent application on November 20, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

/Diane Goodwyn/
Petitions Examiner
Office of Petitions

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31 JAN 2007

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
7th Floor
Los Angeles CA 90025

In re Application of	:	
MOWBRAY et al.	:	
Serial No.: 10/565,473	:	DECISION ON
PCT No.: PCT/AU04/00978	:	
Int. Filing Date: 21 July 2004	:	SUBMISSION
Priority Date: 22 July 2003	:	
Attorney's Docket No.: 17480.P036	:	
For: SINGLE CLUTCH TRANSMISSION	:	

This is a decision on applicants' submission under 35 U.S.C. 371, filed on 05 December 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 22 May 2006, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 24 July 2006, in response to the Notification of Missing Requirements, applicant filed a declaration executed by the joint inventors.

On 24 October 2006, a Notification of Defective Response was mailed to applicant indicating that declaration was not properly executed because the names of the second and third inventors did not correspond with the names as listed on the published application. A new declaration was required.

On 05 December 2006, applicant filed one three page declaration, executed by the joint inventors along with a statement from the second and third inventors, explaining that the international application used an abbreviation of their full legal name.

DISCUSSION

A review of the declaration reveals that it is signed by the joint inventors, is in

compliance with 37 CFR 1.497(a) and (b) and is acceptable.

CONCLUSION

The declaration filed on 05 December 2006 is in compliance with 37 CFR 1.497(a) and (b) and is acceptable. The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date is **05 December 2006.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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27 OCT 2006

S. Peter Ludwig
Darby & Darby, P.C.
P.O. Box 5257
New York, NY 10150-5257

In re Application of	:	
YAMAMOTO, et al.	:	
Application No.: 10/565,497	:	DECISION ON PETITIONS
PCT No.: PCT/JP04/10928	:	
Int. Filing Date: 30 July 2004	:	UNDER 37 CFR 1.181
Priority Date: 01 August 2003	:	
Attorney Docket No.: 04703/0203784-US0	:	AND 37 CFR 1.42
For: CASEIN HYDROLYZATE, PROCESS FOR PRODUCING THE SAME AND USE THEREOF	:	

This decision is in response to applicant's "Request to Withdraw Holding of Notification of Abandonment" filed 12 September 2006 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 30 July 2004, applicant filed international application PCT/JP04/10928, which claimed priority of an earlier application filed 01 August 2003. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 01 February 2006.

On 20 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a First Preliminary Amendment.

On 16 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 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 30 August 2006, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the Form PCT/DO/EO/905 mailed 16 February 2006 within the time period set therein and that above-identified application was abandoned as to the United States.

On 12 September 2006, applicant filed the present petition under 37 CFR 1.181 requesting withdrawal of the abandonment arguing that the extendable time period to file response to the Form PCT/DO/EO/905 had not expired accompanied by a response and a petition for a five-month extension of time.

DISCUSSION

I. Petition Under 37 CFR 1.181

Applicant is correct that the maximum extendable expiration date for responding to the Office action mailed 16 February 2006 was 16 September 2006. As applicant has provided a response accompanied by an extension of time payment, a timely response has been filed and it is proper to grant applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment in ths application.

II. Request For Status Under 37 CFR 1.42

Pursuant to 37 CFR 1.42, first sentence:

> "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The declaration filed 12 September 2006 is executed by Hideo Nishimura as the legal heir / representative of the estate of deceased joint inventor Shigo Nishimura. However, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that it is unclear whether the declaration is setting forth the residence, post office address and country of citizenship of the deceased inventor, Shigo Nishimura or the legal representative. Under 37 CFR 1.497(b) the information must be provided for both the deceased joint inventor and the legal representative.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The NOTIFICATION OF ABANDONMENT mailed 30 August 2006 is hereby **VACATED**.

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice**.

Applicants are 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

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United States Patent and Trademark Office
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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

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OFFICE OF PETITIONS

In re Patent No. 7,382,372 :
Issue Date: 3 June, 2008 :
Application No. 10/565,513 : ON PETITION
Filed: 23 January, 2006 :
Attorney Docket No. P29178 :

This is a decision on the petition filed on 22 January, 2009, under 37 C.F.R. §3.81(b) to correct, *inter alia*, the name of the assignee on the front page of the above-identified patent by way of a certificate of correction under 37 C.F.R. §1.323.

The request is **GRANTED**— upon the instant showing of the recordation of the assignment on 22 June, 2006, and the location of recordation as Reel/Frame 017825/0661.

Petitioner requests issuance of a certificate of correction the identification of the Assignee(s) to "**MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD. (Osaka, JP); HIROSHI YASUDA (Kanagawa, JP); TERUMASA AOKI (Saitama, JP)**" of the substance and in the form of that submitted therewith.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 C.F.R. §3.81(b) and directing issuance of the requested Certificate of Correction.

Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Patent No. 7,382,372
Application No. 10/565,513

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[1]) 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

[1] 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.

10/565,513 APPARATUS AND METHOD FOR CREATING MOVING PICTURE 01-22-2009::15:42:14

Patent Assignment Abstract of Title

Total Assignments: 1

Application #: 10565513 **Filing Dt:** 01/23/2006 **Patent #:** 7382372 **Issue Dt:** 06/03/2008
PCT #: NONE **Publication #:** US20060181541 **Pub Dt:** 08/17/2006
Inventors: Koichi Emura, Shuji Morii, Hiroshi Yasuda, Terumasa Aoki
Title: APPARATUS AND METHOD FOR CREATING MOVING PICTURE

Assignment: 1

Reel/Frame: 017825 / 0661 **Received:** 06/22/2006 **Recorded:** 06/22/2006 **Mailed:** 06/22/2006 **Pages:** 3
Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignors:

EMURA, KOICHI	**Exec Dt:** 09/14/2005
MORII, SHUJI	**Exec Dt:** 09/14/2005
YASUDA, HIROSHI	**Exec Dt:** 09/14/2005
AOKI, TERUMASA	**Exec Dt:** 09/14/2005

Assignees:
MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD.
1006, OAZA KADOMA, KADOMA-SHI,
OSAKA, JAPAN 571-8501

YASUDA, HIROSHI
2-27-20, HONGODAI, SAKAE-KU, YOKOHAMA-SHI,
KANAGAWA, JAPAN 247-0008

AOKI, TERUMASA
1-7-2, KITANO, KAMIFUKUOKA-SHI,
SAITAMA, JAPAN 356-0007

Correspondent:
KENJI KAMATA
1130 CONNECTICUT AVE., N.W., SUITE1100
PANASONIC PATENT CENTER
WASHINGTON, DC 20036

Search Results as of: 01/22/2009 15:41:04 PM

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If the assignment for a patent was not recorded, the name of the assignee on the patent application publication or patent may be different.
If you have any comments or questions concerning the data displayed, contact OPR / Assignments at 571-272-3350

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OFFICE OF PETITIONS

J Deshmukh
458 Cherry Hill Rd
Princeton NJ 08540

In re Application of :
Nguyen, et al. : DECISION ON PETITION
Application No. 10/565,524 :
Filed: January 23, 2006 :
Atty. Dkt. No.: MOLO676 :

This decision is in response to the petition under 37 CFR 1.137(b), filed March 3, 2010.

The petition is **GRANTED**.

The application became abandoned September 24, 2008 for failure to timely submit a proper reply to the non-final Office action mailed June 23, 2008. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was filed. Notice of Abandonment was mailed January 21, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

This application is being forwarded to Group Art Unit 1795 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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AKZO NOBEL INC.
LEGAL & IP
120 WHITE PLAINS ROAD, SUITE 300
TARRYTOWN, NY 10591

Mail Date: 04/20/2010

Applicant	: Zongchao Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7619103	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/565,549	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **427** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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GREIGG & GREIGG P.L.L.C.
1423 POWHATAN STREET, UNIT ONE
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of :
Fevzi Yildirim et al :
Application No. 10/565,560 : DECISION ON PETITION
Filed: January 23, 2006 :
Attorney Docket No. R.306246 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 12, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed April 12, 2007. Accordingly, the date of abandonment of this application is July 13, 2007. A Notice of Abandonment was mailed on August 13, 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 of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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GREIGG & GREIGG P.L.L.C.
1423 POWHATAN STREET, UNIT ONE
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Andreas Huehsam	: DECISION ON REQUEST FOR
Patent Number	: 7572488	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/565,562	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **67** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JOHN M SHEEHAN
FMC CORPORATION
1735 MARKET STREET
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Dalbir SETHI et al.	:	
Application No. 10/565,564	:	DECISION ON PETITION
Filed: August 18, 2006	:	
Attorney Docket No. 60323-USA	:	

This is a decision on the petition, filed December 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 reply to the final Office action mailed February 13, 2008, which set a three (3) month shortened statutory period for reply. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application was abandoned on August 14, 2008. A Notice of Abandonment was mailed on September 03, 2008.

Petitioner asserts that the purpose for filing the extension of times was to maintain copendency with a continuation application. The Office records, indicates that a three (3) month extension of times was submitted.

If petitioner desires to seek withdrawal of the holding of abandonment, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,620.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile:
(571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Michelle R Eason at 571-272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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0 8 APR 2008

ROETZEL AND ANDRESS
222 SOUTH MAIN STREET
AKRON OH 44308

In re Application of	: DECISION ON PETITION
DANIEL J. SMITH	:
Application No.: 10/565,573	: UNDER 37 CFR 1.137(a)
PCT No.: PCT/US04/23867	:
Int. Filing Date: 26 July 2004	:
Priority Date: 25 July 2003	:
Attorney Docket No.: 0894980480US	:
For: STABIZATION AND IONIC TRIGGERING OF NITRIC OXIDE RELEASE	:

This is a decision on applicant's petition under 37 CFR 1.137(a) filed in the United States Patent and Trademark Office (USPTO) on 31 December 2007.

BACKGROUND

On 23 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: the basic national fee.

On 05 February 2007, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration, after the thirty month period was required.

On 07 December 2007, a Notification of Abandonment was mailed to applicant, indicating that applicant had failed to respond to the Notification of Missing Requirements within the time period set therein.

On 31 December 2007, applicant filed the instant petition to revive the application abandoned unavoidably.

DISCUSSION

Applicant submitted a petition under 37 CFR 1.137(a) to revive an unavoidably abandoned application. A review of the documents submitted by applicant reveal that applicant submitted a response to the Notification of Missing Requirements on 26 February 2007. However, the documents referenced an incorrect U.S. serial number. Applicant cannot claim that such error was unavoidable. Therefore, the petition under 37 CFR 1.137(a) is DISMISSED as moot.

Among the papers filed by applicant on 26 February 2007 were "Transmittal Sheet", Response to Notification of Missing Requirements", "Combined Declaration and Power of Attorney", postcard receipt and a copy of the 05 February 2007 Notification of Missing Requirements . The transmittal sheet, postcard receipt and Response bore an incorrect U.S. serial number 10/564,573. These papers were filed in U.S. application file 10/564,573.

On 31 December 2007, after receiving a Notification of Abandonment, applicant filed the instant petition indicating that a response to the Notification of Missing Requirements was filed on 26 February 2007 providing a copy of the USPTO date-stamped postcard receipt and a copy of the papers filed therein. The postcard receipt bore the incorrect U.S. serial number 10/564,573 as did the transmittal letter and response.

A review of U.S. application 10/564,573 reveals that the papers filed by applicant on 26 February 2007 are contained therein.

Applicant's instant petition will be treated as a petition under 37 CFR 1.182 to correct the application number on the submission of 26 February 2007. Applicant filed a response to Notification of Missing Requirements which incorrectly referenced 10/564,573 rather than 10/565,573. However, a copy of the Notification of Missing Requirements filed referenced 10/565,573 accompanied the response. The application number will be corrected to 10/565,573

The $400 petition fee for a petition under 37 CFR 1.182 will be charged to applicant's deposit account per their authorization.

CONCLUSION

Applicant's petition under 37 CFR 1.137(a) is **DISMISSED as moot**. The petition under 37 CFR 1.182 to correct the application no. to 10/565,573 on the papers filed on 26 February 2007 is **GRANTED**. The 07 December 2007 Notification of Abandonment is hereby **VACATED**.

A review of the declaration indicates that it meets the requirements of 37 CFR 1.497(a) and (b) and is acceptable.

This application is being returned to the United States Designated/Elected Office for processing in accord with this decision, including correcting USPTO records so as to identify the papers filed on 26 February 2007 in **10/565,573**. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **26 February 2007.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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BURR & BROWN
PO BOX 7068
SYRACUSE, NY 13261-7068

Mail Date: 05/24/2010

Applicant	: Hiroyuki Tokuda	: DECISION ON REQUEST FOR
Patent Number	: 7666920	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/565,574	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **957** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/30/2010

Applicant	: Alain Mazuir	: DECISION ON REQUEST FOR
Patent Number	: 7613505	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/565,589	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/08/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **512** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Rui Yamada	: DECISION ON REQUEST FOR
Patent Number	: 7656437	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/565,597	: 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 **629** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MERCK
P O BOX 2000
RAHWAY, NJ 07065-0907

Mail Date: 04/27/2010

Applicant	: Lin Chu	: DECISION ON REQUEST FOR
Patent Number	: 7629467	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/565,604	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **446** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WILLIAM J. KOLEGRAFF
3119 TURNBERRY WAY
JAMUL CA 91935

MAILED

JUN 2 1 2010

OFFICE OF PETITIONS

In re Application of :
Arthur R. Zingher :
Application No. 10/565,618 : DECISION ON PETITION
Filed: January 24, 2006 :
Attorney Docket No. ZIN-01 US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment, mailed September 4, 2009, which set a shortened statutory 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 application became abandoned on October 5, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571)272-4584.

This application is being referred to Technology Center AU 2783 for appropriate action by the Examiner in the normal course of business on the reply received.

JoAnne Burke
Petitions Examiner
Office of Petitions

28 JUN 2007

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Alexandria, VA 22313-1450
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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
ZALEVSKY et al.
U.S. Application No.: 10/565,623
PCT No.: PCT/IL2004/00678
International Filing Date: 25 July 2004
Priority Date: 24 July 2003
Atty's Docket No.: ZALEVSKY4
For: METHOD FOR PRODUCTION OF MICRO-OPTICS STRUCTURES

: DECISION ON PETITION
:
: UNDER
:
:37 CFR 1.497(d), 1.183 and 1.47(a)

This decision is issued in response to applicant's petitions: "Petition under 37 CFR 1.497(d)", "Petition under 37 CFR 1.183" to waive the requirements of 37 CFR 1.497(d), and "Petition under 37 CFR1.47(a)" filed 05 December 2006. The appropriate petition fees were paid. Applicant's request for a five month extension of time is granted.

BACKGROUND

On 25 July 2004, applicant filed international application PCT/IL04/00678. The international application claimed a priority date of 24 July 2003 and it designated the United States. On 3 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. The published international application identified five inventors: Zeev Zalevsky, Vardit Eckhouse, Izhar Eyal, Arkady Rudnitsky and Nadav Cohen.

On 24 January 2006, applicant filed a Transmittal Letter for entry into the national stage in the United States accompanied by, *inter alia*, payment of the basic national fee.

On 5 May 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant requiring submission of a proper declaration under 37 CFR 1.497(a) and (b) and the surcharge for filing the declaration later than thirty months after the priority date.

On 5 December 2006, in response to the 905, applicant filed a declaration, which listed Yuval Kapellner as an inventor. The declaration is unacceptable as it fails to properly identify the inventors of record herein because Mr. Kapellner is not identified as an inventor in the published PCT international application. Applicant also filed a petition under 37 CFR 1.497(d), a Petition under 37 CFR 1.183 and a petition under 1.47(a). The petition under 37 CFR 1.497(d) seeks to add Yuval Kapellner as an inventor; the petition under 37 CFR 1.183 seeks waiver of the requirement of 37 CFR 1.497(d)(1). The petition under 37 CFR 1.47(a) requests the application

to be accepted without the signatures of Izhar Eyal, Arkady Rudnitsky and Yuval Kapellner.

On 25 May 2007, a Notification of Acceptance was erroneously mailed to applicant and is hereby VACATED.

DISCUSSION

Request To Add Inventor Under 37 CFR 1.497(d)

Where, as here, the filed declaration names additional inventors who were not identified on the international application, 37 CFR 1.497(d) requires applicant to submit: (1) a statement from each person being added as an inventor that any error in inventorship in the international application occurred without deceptive intent; (2) the processing fee; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the consignee (in the form required by 37 CFR 3.73(b)).

Applicant has submitted the required processing fee, satisfying Item (2). Applicant has provided the consent of the assignee, Ex-Play, LTD to the requested change of inventorship, satisfying Item (3). However, Applicant has not provided the statement from Mr. Kapellner, required under 37 CFR 1.497(d)(1). In lieu of the statement, applicant submits a petition under 37 CFR 1.183 to waive the requirement under 37 CFR 1.497(d)(1).

Petition under 37 CFR 1.183

Because of Mr. Kapellner's alleged refusal to sign a statement of lack of deceptive intent, applicant filed a petition under 37 CFR 1.183 to waive this requirement.

Petitioner contends that Yuval Kapellner was intended to be included as an inventor in the PCT application but his name was inadvertently listed as an applicant for other than the U.S. In support of this contention, Petitioner relies on an email communication from Mr. Kapellner to Devin Katz, patent administrator for an Israeli law firm, who prepared the Request form for PCT/IL02/00678. Petitioner relies on Exhibit P, which is attached to the Katz declaration and referenced therein, to confirm that Mr. Kapellner identifies himself as an inventor for the application at issue. However, the email does not identify PCT/IL02/00678 but is directed to a European Patent application. Moreover, it is noted that the email is signed by Yuval Kapplener-Rabinovitch, not Yuval Kapellner. It is noted that Exhibit K, a letter indicating Kapplener-Rabinovitch's willingness to assign PCT/IL04/00951, is also included among the papers requesting relief under 37 CFR 1.47(a). Given the difference in the spelling and hyphened name (Ka**pell**ner or Ka**ppl**ener-Rabinovitch) , it is unclear whether the signatory in these Exhibits one and the same person as the nonsigning inventor referred to as Kapellner.

Applicant attempts to rely on an analogous context of 37 CFR 1.48(a) and cites MPEP section 201.03(II)(A) with respect to applicant's possible alternatives, based on this alleged refusal to execute the 37 CFR 1.497(d)(1) statement required to add him as an inventor.

As discussed in MPEP section 201.03(II)(A), where an inventor to be added or deleted refuses to execute the required statement of non-deceptive intent, the applicants have two options. They can either: (1) file a petition under 37 CFR 1.183 requesting waiver of the requirements of 37 CFR 1.497(d)(1); or (2) file a continuation application that names the proper inventors (i.e., the inventors of record, plus Mr. Kapellner), thereby alleviating the necessity of adding the missing inventor to the application under 37 CFR 1.497(d).

A petition under 37 CFR 1.183 is only granted in rare circumstances[1] where justice requires the waiver of the applicable regulation and where applicants have no alternative remedy.

Applicant states that there is a difficulty in adding Mr. Kapellner as an inventor herein, because any such request requires a statement under 37 CFR 1.497(d)(1) executed by Mr. Kapellner, who purportedly refuses to execute any documents for this application. Applicant argues that waiver under 37 CFR 1.183 may be available in situations where an inventor to be added refuses to submit a statement supporting the addition or such party cannot be reached, citing MPEP Section 201.03 II A . Statement of Lack of Deceptive Intention.

In the analogous context of a petition under 37 CFR 1.48, section 201.03(II)(A) of the MPEP addresses situations where the required statement from an added inventor cannot be obtained. The MPEP states that, on "very infrequent occasions", the statement requirement can be waived pursuant to a petition under 37 CFR 1.183. The MPEP goes on to suggest an alternative remedy, as follows:

> An available remedy to obtain correction of inventorship where waiver of a required statement is not available to correct the inventorship in a particular application is to refile the application naming the correct inventive entity. A request under 37 CFR 1.48(a) would not then be required in the newly filed application as no correction would be needed. Furthermore, a request under 37 CFR 1.48(a) would also not be required in the prior application that was refiled, since the prior application will be abandoned. Benefit of the parent application's filing date would be available under 35 U.S.C. 120 provided there is at least one inventor overlap between the two applications. (Note: a sole-to-sole correction would not obtain benefit under 35 U.S.C. 120).

Applicant has not provided a rare factual scenario, unequivocally supporting the correction sought, to require a waiver of the rule. For this reason, the petition under 37 CFR 1.183 is **DISMISSED without prejudice**.

Therefore, the present record does not include all the requirements for the requested addition of Mr. Kapellner an inventor herein. Applicant states that the inventor has refused to sign the statement required under 37 CFR 1.497(d)(1); however, such a refusal does not eliminate the applicable requirement. The requirements of 37 CFR 1.497(d) are not met and the petition to add Yuval Kapellner as an inventor is **DISMISSED without prejudice**.

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[1] As noted in MPEP §201.03, on very infrequent occasions, the requirements of 37 CFR 1.48(a) have been waived upon the filing of a petition and fee under 37 CFR 1.183 (along with the request and fee under 37 CFR 1.48(a)) to permit the filing of a statement by less than all the parties required to submit a statement. However, such a waiver will not be considered unless the facts of record unequivocally support the correction sought. 37 CFR 1.48(a) is intended as a simple procedural remedy and does not represent a substantive determination as to inventorship, issues relating to the inventors' or alleged inventors' actual contributions to conception and reduction to practice are not appropriate for consideration in determining whether the record unequivocally supports the correction sought.

Petition under 37 CFR 1.47(a)

Applicant also filed a petition under 37 CFR 1.47(a) requesting that the application to be accepted without the signatures of Izhar Eyal, Arkady Rudnitsky and Yuval Kapellner[2].

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Item (1) is satisfied with the payment of the petition fee. Item (2) is satisfied with the declaration of Svetlana Shtadler, who sent each nonsigning inventor a complete copy of the application. Attached to Ms. Shtadler's declaration are copies (and English translations) of the postal receipt, confirming delivery of the application to the nonsigning inventors. From this evidence and the inventors' conduct, it can be concluded that the nonsigning inventors refuse to sign the application papers. Item (3) is satisfied because the last known addresses of the nonsigning inventors was provided. Item (4) cannot be satisfied with the declaration executed by the joint inventors on behalf of the nonsigning inventors until the inventorship of the application is resolved.

However, the petition under 37 CFR 1.47(a) cannot be granted at this time, until the inventorship of the application is resolved. The declaration submitted identifies an inventive entity, which is not named in the international application and is unacceptable at this time. The petition under 37 CFR 1.47(a) is held in abeyance until the inventorship of the application is resolved.

CONCLUSION

The 25 May 2007 Notification of Acceptance was erroneously mailed to applicant and is **VACATED**.

Applicant's request to correct inventorship under 1.497(d) and petition under 37 CFR 1.183 is **DISMISSED without prejudice**.

Applicant's petition under 37 CFR 1.47(a) is **DISMISSED without prejudice.**

The declaration filed 05 December 2006 is defective for failure to properly identify the inventors of record herein.

If reconsideration on the merits of the petitions is desired, a proper response must be filed within TWO (2) MONTHS of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d) and 1.47(a)" and must include the statement from Yuval Kapellner required under 37 CFR 1.497(d)(1), as discussed above.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Application No.: 10/565,623

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.

Leonard E Smith

Leonard E. Smith
Supervisory Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3297
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

15 JUL 2008

Commissioner for Patents
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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 ZALEVSKY et al. U.S. Application No.: 10/565,623 PCT No.: PCT/IL2004/00678 International Filing Date: 25 July 2004 Priority Date: 24 July 2003 Atty's Docket No.: ZALEVSKY4 For: METHOD FOR PRODUCTION OF MICRO-OPTICS STRUCTURES	DECISION ON PETITION UNDER 37 CFR 1.497(d)

This decision is issued in response to applicant's "Request for Reconsideration" of the decision on applicant's "Petition under 37 CFR 1.497(d)", "Petition under 37 CFR 1.183" to waive the requirements of 37 CFR 1.497(d), and "Petition under 37 CFR1.47(a)". The request for reconsideration was filed 26 October 2007.

BACKGROUND

A recitation of the procedural history of this application is set forth in the decision mailed on 28 June 2007. In short, on 5 December 2006, in response to the 905, applicant filed a declaration, which listed Yuval Kapellner as an inventor. In the 28 June 2007 decision, applicant was advised that the declaration was unacceptable as it failed to properly identify the inventors of record herein since Mr. Kapellner was not identified as an inventor in the published PCT international application. Applicant's petition under 37 CFR 1.497(d), a Petition under 37 CFR 1.183 and a petition under 1.47(a) were dismissed without prejudice.

On 26 October 2007, applicant filed the instant reconsideration of the petition under 37 CFR 1.497(d) seeking to add Yuval Kapellner as an inventor. Applicant also filed declarations executed by all the named inventors and by Yuval Kapellner.

DISCUSSION

Request To Add Inventor Under 37 CFR 1.497(d)

Where, as here, the filed declaration names additional inventors who were not identified on the international application, 37 CFR 1.497(d) requires applicant to submit: (1) a statement from each person being added as an inventor that any error in inventorship in the international application occurred without deceptive intent; (2) the processing fee; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the consignee (in the form required by 37 CFR 3.73(b)).

Applicant previously submitted the required processing fee, satisfying Item (2) and the consent of the assignee, Ex-Play, LTD to the requested change of inventorship, satisfying Item

(3). Applicant has now provided the statement from Mr. Kapellner, required under 37 CFR 1.497(d)(1). Applicant's request to correct inventorship under 1.497(d) is granted.

However, the declaration executed by ARKADY RUDNITSKY is not acceptable. A review of the declaration reveals that the inventor's address has been altered. The USPTO does not accept a declaration that has been altered.

Section 602.01 of the MPEP states the following:

> The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed. If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required....

Any changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath or declaration. The Office will not consider whether non-initialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration.

Therefore, a new acceptable oath or declaration executed by the inventor ARKADY RUDNITSKY is required to satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

CONCLUSION

Applicant's request to correct inventorship under 1.497(d) is **GRANTED**.

The declaration executed by ARKADY RUDNITSKY, filed 26 October 2007, is defective as it contains an alteration. A new acceptable oath or declaration executed by the inventor ARKADY RUDNITSKY in compliance with 37 CFR 1.497(a) and (b) and 1.63, is required to satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

This application will be held in the PCT Legal Office, Office of PCT Legal Administration to await applicant's further reply, that is, a newly executed oath or declaration by the inventor, in compliance with 37 CFR 1.497(a) and (b). Applicant has TWO 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
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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Jun Suda	: DECISION ON REQUEST FOR
Patent Number	: 7622763	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/565,624	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **826** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Alexandria, VA 22313-1450
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15 FEB 2006

Kenyon & Kenyon, LLP
1500 K Street, NW, Suite 700
Washington, D.C. 20005

In re Application of :
ENDO, et al. :
Application No.: 10/565,642 : DECISION ON PETITION
PCT No.: PCT/JP04/10454 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 15 July 2004 :
Priority Date: 23 July 2003 :
Attorney Docket No.: 476/131 :
For: GUIDING DEVICE FOR GUIDING VEHICLE TO TARGET PLACE BY CONTROLLING THE STEERING ANGLE

The petition to revive under 37 CFR 1.137(b) filed 24 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.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

28 FEB 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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BIRCH STEWART KOLASCH & BIRCH
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of :
XIA, Jiahui *et al* :
U.S. Application No.: 10/565,655 :
PCT No.: PCT/CN2003/000363 :
Int. Filing Date: 19 May 2003 :
Priority Date: None :
Attorney Docket No.: 4596-015PUS1 :
For: A MICRO-HOLDING PIPETTE WITH AN OBLIQUE OPENING :

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 24 January 2006 is hereby **GRANTED** as follows:

The basic national fee and petition fee for a small entity has 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 $65.00 has been charged to Deposit Account No. 02-2448 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 19 May 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 24 January 2006.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

22 DEC 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

Philips Intellectual Property & Standards
P.O. Box 3001
Briar cliff Manor, NY 10510

In re Application of :
VENKAT et al. :
Application No.: 10/565,662 : DECISION ON REQUEST
PCT No.: PCT/IB04/51281 :
Int. Filing Date: 22 July 2004 :
Priority Date: 25 July 2003 :
Attorney Docket No.: US030231 :
For: FILAMENT CUTOUT CIRCUIT

This decision is issued in response to the "Correction of Inventorship under 37 CFR 1.48" filed 06 November 2006, which is being treated as a request under 37 CFR 1.497(d) to correct the inventorship of the present national stage application. Deposit Account No. 14-1270 will be charged the required processing fee.

BACKGROUND

On 22 July 2004, applicants filed international application PCT/IB04/51281 which claimed a priority date of 25 July 2003. The published international application identified two applicant/inventors for the United States: Rama Venkat and Patrick Keegan. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 25 January 2006.

On 23 January 2006, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a preliminary amendment; and a copy of the international application.

On 05 May 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 06 November 2006, applicants filed the present request under 37 CFR 1.497(d) to add Ernesto Mendoza as an inventor.

DISCUSSION

The present submission seeks to correct the inventorship so as to add inventor Ernesto Mendoza to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17; and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).
> >
> > (4) any new oath or declaration required by paragraph (f) of this subsection.

With respect to the adding Ernesto Mendoza to the application, applicants' 06 November 2006 submission satisfies requirements (1), (2) and (4).

However, item (3) has not been satisfied. Specifically, the assignee has not established its ownership to the application in accordance with 37 CFR 3.73. Further, it is unclear whether the person executing the "Consent of Assignee" is authorized to act on behalf of the assignee or has apparent authority to sign on behalf of the assignee. Therefore, applicants must provide a copy of the assignment or a specific reference to its recorded location in the United States Patent and Trademark Office (e.g., reel and frame number). (See Manuel of Patent Examining Procedure (MPEP) §324 and Statement under 37 CFR 3.73(b).)

Because applicants have not satisfied all the requirements of 37 CFR 1.497(d), inventor Ernesto Mendoza cannot be added to the application on the present record.

CONCLUSION

Applicants' request to add inventor Ernesto Mendoza under 37 CFR 1.497(d) is **DISMISSED** without prejudice. The inventors of record remain the inventors named on

the international application.

Applicants must file a proper response to this decision within **TWO (2) MONTHS** from the mail date indicated above. A proper response must include a declaration in compliance with 37 CFR 1.497(a)-(b) and a written consent of assignee in compliance with 37 CFR 3.73(b).

Failure to file a timely and proper response will result in abandonment of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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12/22/2006 SBASHEIR 00000003 141270 10565662
Sale Ref: 00000003 DA#: 141270 10565662
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10 MAY 2007

Philips Intellectual Property & Standards
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In re Application of :
VENKAT et al. :
Application No.: 10/565,662 : DECISION ON REQUEST
PCT No.: PCT/IB04/51281 :
Int. Filing Date: 22 July 2004 :
Priority Date: 25 July 2003 :
Attorney Docket No.: US030231 :
For: FILAMENT CUTOUT CIRCUIT

This decision is issued in response to the "Response to Decision on Request for Correction of Inventorship dated 26 December 2006" filed 13 March 2007, which is being treated as a request under 37 CFR 1.497(d) to correct the inventorship of the present national stage application. The petition fee has been submitted.

BACKGROUND

On 22 July 2004, applicants filed international application PCT/IB04/51281 which claimed a priority date of 25 July 2003. The published international application identified two applicant/inventors for the United States: Rama Venkat and Patrick Keegan. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 25 January 2006.

On 23 January 2006, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a preliminary amendment; and a copy of the international application.

On 05 May 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 06 November 2006, applicants filed a request under 37 CFR 1.497(d) to add Ernesto Mendoza as an inventor. In a decision dated 22 December 2006, applicants petition under 37 CFR 1.497(d) was dismissed without prejudice.

On 13 March 2007, applicants filed the present renewed request under 37 CFR 1.497(d).

DISCUSSION

The present submission seeks to correct the inventorship so as to add inventor Ernesto Mendoza to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17; and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).
> >
> > (4) any new oath or declaration required by paragraph (f) of this subsection.

With respect to the adding Ernesto Mendoza to the application, applicants' previous submission satisfied requirements (1), (2) and (4).

Regarding item (3), applicants have submitted a document entitled "Consent of Assignee" which states that Koninklijke Philips Electronic N.V. hereby consents to the addition of Ernesto Mendoza to the inventorship of the above-identified application. The "Consent of Assignee" is executed by an "authorized representative" that states that he is authorized to act on behalf of the assignee. However, pursuant to 37 CFR 1.497(d)(3), the consent of the assignee must be submitted in compliance with 37 CFR 3.73(b) (see MPEP section 201.03(II)(D)). Here, the statement executed by the assignee does not comply with the requirements of 37 CFR 3.37(b)(1). Specifically, the assignee does expressly state that "the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation" or that "documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number)." (It is noted that "[i]f the submission under this

section is by assignee of less than the entire right, title and interest, such assignee must indicate the extent (by percentage) of its ownership interest, or the Office may refuse to accept the submission as an establishment of ownership.)

Based on the above, the present record does not satisfy all the requirements for correction of the inventorship under 37 CFR 1.497(d).

CONCLUSION

Applicants' request to add inventor Ernesto Mendoza under 37 CFR 1.497(d) is **DISMISSED** without prejudice. The inventors of record remain the inventors named on the international application.

Applicants must file a proper response to this decision within **TWO (2) MONTHS** from the mail date indicated above. A proper response must include a declaration in compliance with 37 CFR 1.497(a)-(b) and a written consent of assignee in compliance with 37 CFR 3.73(b).

Failure to file a timely and proper response will result in abandonment of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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18 JUL 2007

Philips Intellectual Property & Standards
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In re Application of :
VENKAT et al. :
Application No.: 10/565,662 : DECISION ON REQUEST
PCT No.: PCT/IB04/51281 :
Int. Filing Date: 22 July 2004 :
Priority Date: 25 July 2003 :
Attorney Docket No.: US030231 :
For: FILAMENT CUTOUT CIRCUIT

This decision is issued in response to applicnats' "Response to Decision on Request for Correction of Inventorship dated 10 May 2007" filed 02 July 2007, which is being treated as a renewed request under 37 CFR 1.497(d) to correct the inventorship of the present national stage application. The petition fee has been submitted.

BACKGROUND

On 22 July 2004, applicants filed international application PCT/IB04/51281 which claimed a priority date of 25 July 2003. The published international application identified two applicant/inventors for the United States: Rama Venkat and Patrick Keegan. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 25 January 2006.

On 23 January 2006, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a preliminary amendment; and a copy of the international application.

On 05 May 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 06 November 2006, applicants filed a request under 37 CFR 1.497(d) to add Ernesto Mendoza as an inventor. In a decision dated 22 December 2006, applicants' petition under 37 CFR 1.497(d) was dismissed without prejudice.

On 13 March 2007, applicants filed a renewed request under 37 CFR 1.497(d). In a decision dated 10 May 2007, applicants' petition under 37 CFR 1.497(d) was dismissed without prejudice.

On 02 July 2007, applicants submitted the present renewed request under 37 CFR 1.497(d).

DISCUSSION

The present submission seeks to correct the inventorship so as to add inventor Ernesto Mendoza to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17; and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).
> >
> > (4) any new oath or declaration required by paragraph (f) of this subsection.

With respect to item (1), applicants have submitted a statement from the inventor being added, Ernesto Mendoza, in which the inventor states that the earlier error in inventorship did not result from deceptive intent on his part. Item (1) is therefore satisfied.

With respect to item (2), applicants have submitted the required $130 processing fee. Item (2) is therefore satisfied.

With respect to item (3), applicants have submitted a statement of consent to the change of inventorship executed on behalf of the assignee, Koninklijke Philips Electronic N.V. This consent is accompanied by a Statement under 37 CFR 3.73(b). Item (3) is therefore satisfied.

Item (4) does not apply to the present application.

Accordingly, applicants have satisfied all the requirements for correction of inventorship under 37 CFR 1.497(d).

CONCLUSION

Applicants' request for correction of inventorship under 37 CFR 1.497(d) is **GRANTED**.

Ernesto Mendoza is added as an inventor herein.

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.

Anthony Smith
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MORRISON & FOERSTER, LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

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JUL 10 2008

OFFICE OF PETITIONS

In re Application of :
BIERHOFF, Thomas :
Application No. 10/565,674 : DECISION ON PETITION
Filed: May 30, 2006 : TO WITHDRAW
Attorney Docket No. **449122086300** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 31, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER, LLP** has been revoked by the assignee of the patent application on October 29, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BELL, BOYD & LLOYD, LLP**
P.O. BOX 1135
CHICAGO IL 60690

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 05/07/2010

Applicant	: Jurgen Maul	: DECISION ON REQUEST FOR
Patent Number	: 7664404	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/565,685	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1008** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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07 JAN 2008

SCHWEGMAN, LUNDBERG, WOESSNER
& KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re Application of	:	DECISION ON
Buryak et al	:	
PCT No.: PCT/AU2004/000987	:	
Application No: 10/565,691	:	
Int. Filing Date: 03 February 2004	:	PETITION UNDER
Priority Date: 23 July 2003	:	
Attorney's Docket No.: 2085.005US1	:	
For: OPTICAL DATA CARRIER SYSTEM	:	37 CFR 1.47(a)

This is in response to the "RULE 1.47(a) PETITION TO FILE APPLICATION BY OTHER THAN INVENTOR" filed on 26 December 2006. The petition fee of $200.00 has been charged to petitioner's Deposit Account as specified in the petition.

BACKGROUND

On 03 February 2004, applicants filed international application PCT/AU2004/000,987, which claimed priority to an earlier application filed 23 July 2003.

On 23 January 2006, applicants filed in the United States Patent & Trademark Office a transmittal letter for entry into the national stage in the U.S. under 35 U.SC. 371, which was accompanied by, inter alia, the U.S. basic national fee. No executed declaration or oath was submitted at such time.

On 26 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905), which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date that the declaration does not comply with 37 CFR 1.497(a) and (b) in that it is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68." The notice indicated that all of the items set forth 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.

On 26 December 2006, petitioner filed the present petition, a declaration in support of filing on behalf of omitted joint inventor Alexander Buryak.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

REFUSAL TO JOIN:

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the **37 CFR 1.47** applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See **MPEP § 106**. It is reasonable to require that the inventor be presented with the application papers before a petition under **37 CFR 1.47** is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied items (1), (3) and (4) of 37 CFR 1.47(a) but not item (2).

Regarding item (1), petitioner has provided the petition fee of $200.00 under 37 CFR 1.17(g).

Regarding requirement (2), although the statement by Bradley Forrest states that Mr. Buryak sent an e-mail on May 19, 2006 indicating that he would not cooperate with the prosecution of the above-identified application and that he did not sign any papers, it has not been sufficiently demonstrated that a copy of the application papers were presented to the nonsigning inventor. It is unclear what documents were forwarded to Mr. Buryak because the petition refers only to the Combined Declaration and Power of Attorney papers and there is no statement referring to a copy of the application papers (specification, including claims, drawings, and oath or declaration) as required under MPEP. 409.03(d) being sent to him.

Moreover, it is not clear from the petition that it was Bradley Forrest who performed the items listed in the petition, and has first hand knowledge of those facts as required by MPEP Section 409.03(d). If Mr. Forrest was not the person who performed the actions listed in the petition, petitioner will need to submit statements, with specific facts on the actions referred to by the petition by persons who have first-hand knowledge of such facts. In addition, the declaration by Dr. Ian Mann does elaborate the actions taken to obtain Mr. Buryak's signature.

Accordingly, the steps enumerated by Bradley Forrest are not sufficient to establish that Mr. Buryak has refused to sign the declaration.

Regarding item (3), petitioner has provided a statement of the last known address of the missing inventor.

Regarding item (4), petitioner has provided an executed declaration signed by Kazimir Kolossovski and Dimitri Yu Stepanov on their behalf and on the behalf of the nonsigning joint inventor Alexander Buryak.

Consequently, the petition does not satisfy all the items under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)."

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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In re Application of	:	DECISION ON
Buryak et al	:	
Application No: 10/565,691	:	
PCT No.: PCT/AU2004/000987	:	
Int. Filing Date: 23 February 2004	:	PETITION UNDER
Priority Date: 23 July 2003	:	
Attorney's Docket No.: PH0325	:	
For: RADIOPHARMACEUTICAL GENERATION	:	
SYSTEM	:	37 CFR 1.47(a)

This decision is in response to applicants' "RESPONSE TO DECISION UNDER PETITION UNDER 37 CFR 1.47(a)" submitted on 11 March 2008 in response to a decision by this Office dated 07 January 2008.

BACKGROUND

The decision by this Office dated 07 January 2008 indicated that requirement (2) had not been satisfied.

On 11 March 2008, petitioner filed this renewed petition accompanied, inter alia, an executed declaration by inventor Alexander Buryak.

DISCUSSION

The renewed petition states subsequent to the date of the Decision, Alexander Buryak, executed a declaration. The declaration is now signed by all the inventors.

Accordingly, the declaration submitted on 11 March 2008 complies with 37 CFR 1.497(a) and (b).

CONCLUSION

The petition under 37 CFR 1.47(a) is **MOOT**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **11 March 2008.**

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Niel P Sirota
Baker Botts
30 Rockelfeller Plaza
New York NY 10112

In re Application of:
BOCKO, Mark, et al.
U.S. Application No.: 10/565,704
PCT No.: PCT/US2003/023160
International Filing Date: 24 July 2003
Priority Date: None
Dkt No.: A35672-PCT-USA (074424.0107)
For: SYSTEM AND METHOD FOR IMAGE SENSING AND PROCESSING

DECISION ON PETITION
(37 CFR 1.182)

This decision is issued in response to applicants' "Petition To Withdraw Holding Of Abandonment Under 37 CFR 1.181" filed 10 January 2008, treated herein under 37 CFR 1.182. Deposit Account No. 02-4377 will be charged the required $400 petition fee.

BACKGROUND

On 24 July 2003, applicants filed international application PCT/US2003/023160. The international application did not claim an earlier priority date, and it designated the United States. The deadline for submission of the basic national fee was thirty months from the international filing date, i.e., 24 January 2006.

On 23 January 2006, applicants filed a Transmittal Letter requesting entry into the national stage in the United States accompanied by, among other materials, payment of the small entity basic national fee.

On 19 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 executed oath or declaration in compliance with 37 CFR 1.497, the surcharge for filing the oath or declaration later than thirty months after the priority date, and additional claims fees were required.

On 07 December 2007, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a response to the Notification Of Missing Requirements.

On 10 January 2008, applicants filed the petition considered herein. The petition asserts that, on 07 August 2006, applicants filed a timely and proper response to the Notification Of

Missing Requirements, including an executed declaration and a check in payment of the required surcharge and claims fees, and that the holding of abandonment should therefore be withdrawn.

DISCUSSION

As noted above, the present petition asserts that a proper and timely response to the Notification Of Missing Requirements was filed herein on 09 August 2006. The petition includes a copy of these materials, including the executed declaration, a Transmittal Form (PTO/SB/21), a Fee Transmittal Form (PTO/SB/17), a copy of the Notification of Missing Requirements, a check in the amount of $165, and a document entitled "Submission Of Missing Requirements" which itemizes these materials, as well as a return postcard confirming receipt of these materials in the USPTO on 09 August 2006.

However, the caption of the "Submission Of Missing Requirements" document included in the 09 August 2006 filing references a separate U.S. application. Specifically, the application number, applicant name, title, filing date, and docket number listed on this document do not correspond to the present application. A review of U.S. application 10/595,268, the application number listed by applicants on the "Submission Of Missing Requirements," reveals that the 09 August 2006 submission, including the executed declaration and $165 fee payment, were placed in such application file and properly identified as having been filed on 09 August 2006.

Because the materials filed on 09 August 2006 were directed by applicants to a different application, a grantable petition under 37 CFR 1.182 is required before such materials can be treated as having been filed in the present application as a timely response to the Notification Of Missing Requirements mailed 19 July 2006, as necessary in order to avoid abandonment of the present application. Accordingly, the present petition is treated herein under 37 CFR 1.182.

The present petition authorizes a charge for required fees; based on this authorization, Deposit Account No. 02-4377 will be charged the petition fee required for a petition under 37 CFR 1.182. In addition, a review of the documents filed 09 August 2006 confirms that the proper application number was listed thereon (specifically on the Transmittal Form, Fee Transmittal Form, and on the copy of the Notification Of Missing Requirements included with such submission), as also required for a grantable petition. The payment of the petition fee and the inclusion of the correct application number on the filed documents, in combination with the statements in the present petition, satisfy the requirements for a grantable petition under 37 CFR 1.182. Accordingly, the materials filed 09 August 2006, including the executed declaration, will be moved into the present application file and treated as having been filed in the present application on 09 August 2006 as a timely response to the Notification of Missing Requirements mailed 19 July 2006.[1]

[1] USPTO records indicate that the $165 fee and surcharge payment submitted by applicants on 09 August 2006 and originally applied to application file 10/595,268 was subsequently refunded to applicant in December 2006. Accordingly, Deposit Account No. 02-4377 will be charged again for these required fees, which will now be properly applied to the present application, 10/565,704.

The Notification Of Abandonment (Form PCT/DO/EO/909) mailed 07 December 2007, based as it was on applicants' purported failure to file a response to the Notification of Missing Requirements, is appropriately withdrawn.

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED**.

The Notification Of Abandonment (Form PCT/DO/EO/909) mailed 07 December 2007 is hereby **VACATED**.

The materials filed on 09 August 2006 in response to the Notification of Missing Requirements and originally directed to U.S. application 10/595,268, including the executed declaration and $165 fee and surcharge payment, will be treated as having been filed in the present application on 09 August 2006 as a timely response to the Notification of Missing Requirements.

Deposit Account No. 02-4377 will be charged the required $400 petition fee, as well as the $65 surcharge and the $100 extra claims fee originally submitted on 09 August 2006, but subsequently refunded.

This application is being forwarded to the National Stage Processing Branch of the PCT Operations Division for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 09 August 2006.

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30 NOV 2006

Linda K. Russell
IP Department
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Houston, Texas 77056

In re Application of
SCHMUTZ et al.
U.S. Application No.: 10/565,712
PCT No.: PCT/FR04/50348
Int. Filing Date: 21 July 2004
Priority Date: 04 August 2003
Attorney Docket No.: Serie6353
For: CIRCUIT FOR SUPPLYING OXYGEN TO AIRCRAFT PASSENGERS

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition for Filing By Other Than All the Inventors under 37 CFR 1.47(a)" filed 14 August 2006 to accept the application without the signature of joint-inventor, Jean Dehayes. The $200 petition fee will be charged to Deposit Account no. 01-1375 under 37 CFR 1.17(f).

BACKGROUND

On 21 July 2004, applicants filed international application PCT/FR04/50348 which claimed a priority date of 04 August 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 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, 04 February 2006.

On 25 January 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 11 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration. The notification set a two-month time limit in which to respond.

On 14 August 2006, applicants filed a Petition under 37 CFR 1.47(a) and a one-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1) and (2) have been satisfied.

A review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Jean Dehayes. The steps are sufficient to show that Jean Dehayes has refused to execute the application.

Regarding item (3) above, a clear statement of the last known address of the nonsigning inventor has not been provided. In situations where an inventor does not execute the oath or declaration, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary. (See MPEP §605.03)

As to Item (4), a review of the declaration filed on 14 August 2006 reveals that declaration is not in an acceptable form. Specifically, there is an issue as to whether the declaration has been properly executed. The declaration filed with the petition includes duplicate sheets of page 3 of 3. It is unclear if the inventors were presented with only their signature page, in which case the execution would be improper, or if they were presented with a complete declaration for signing, but counsel subsequently compiled the declaration into the single document filed 14 August 2006, which is improper. (See MPEP 201.03, Page 200-7) Therefore, in order to satisfy this item, applicants are required to file declaration(s) which comply with 37 CFR 1.497(a) and (b).

For the reasons stated above, it would not be appropriate to accept the application without the signature of Jean Dehayes under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** 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.

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31 JAN 2007

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In re Application of
SCHMUTZ et al.
U.S. Application No.: 10/565,712
PCT No.: PCT/FR04/50348
Int. Filing Date: 21 July 2004
Priority Date: 04 August 2003
Attorney Docket No.: Serie6353
For: CIRCUIT FOR SUPPLYING OXYGEN TO AIRCRAFT PASSENGERS

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 22 January 2007 to accept the application without the signature of joint inventor, Jean Dehayes.

BACKGROUND

On 21 July 2004, applicants filed international application PCT/FR04/50348 which claimed a priority date of 04 August 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 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, 04 February 2006.

On 25 January 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 11 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration. The notification set a two-month time limit in which to respond.

On 14 August 2006, applicants filed a Petition under 37 CFR 1.47(a) and a one-month extension of time. In a decision dated 30 November 2006, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 22 January 2007, applicants filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A 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 22 January 2007 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor (Jean Dehayes) refused to sign, stated the last known address of the non-signing inventor (Jean Dehayes), and provided an acceptable declaration. Accordingly, all of the requirements of items (1), (2), (3), and (4) above have been satisfied.

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**.

The application will be given an international filing date of 21 July 2004 under 35 U.S.C. 363, and a date of 22 January 2007 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

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08 MAY 2006

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Gordon & Rees, LLP
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In re Application of :
VARKI et al. :
U.S. Application No.: 10/565,742 : DECISION ON PETITION
PCT No.: PCT/US04/22415 : UNDER 37 CFR 1.137(a)
Int. Filing Date: 14 July 2004 :
Priority Date: 15 July 2003 :
Attorney Docket No.: XUCSD.TBA :
For: METHODS FOR DETECTING AND ANALYZING N-GLYCOLYNLNEURAMINIC ACID (NEU5GC) IN BIOLOGICAL MATERIALS :

This decision is issued in response to applicant's "Petition for Revival of an International for Patent Designating the U.S. Abandoned Unavoidably A under 37 CFR 1.137(a)" filed 23 January 2006.

BACKGROUND

On 14 July 2004, applicant filed international application PCT/US04/22415 which claimed a priority date of 15 July 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 15 January 2006.

On 23 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: the basic national fee, a copy of the international application; and the present petition under 37 CFR 1.137(a).

DISCUSSION

A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the requisite petition fee; (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 1.20(d)) required pursuant to 37 CFR 1.137(c). Applicant has satisfied Item (1), (2) and (4).

With regard to Item (3), Section 711.03(c) of the Manual of Patent Examining Procedure states: "A delay resulting from an error (e.g., a docketing error) on the part of an

employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (A) the error was the cause of the delay at issue; (B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and (C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care."

Petitioner states that the above-identified application became abandoned as to the United States because of a docketing error. However, petitioner has not provided sufficient evidence that: (1) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance and (2) that the employee(s) was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

In summary, the actions taken in the prosecution of this case do not reflect unavoidable delay. Specifically, unavoidable delay is present only where petitioner and those acting for petitioner take all actions necessary to continue the prosecution of an application, but through the intervention of unforeseen circumstances, a required action is not timely taken. The actions and circumstances described in this petition do not reflect the "care or diligence that is generally used and observed by prudent and careful men in relation to their most important business." Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Therefore, applicant has not satisfied item (3) above.

Since applicant has not met the requirements for revival of an application under 37 CFR 1.137(a), revival under this section would not be proper.

RECOMMENDATION

Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in 37 CFR 1.137. This recommendation to file a petition under 37 CFR 1.137(b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

CONCLUSION

The petition under 37 CFR 1.137(a) is **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)." Extensions of time may be obtained under 37 CFR 1.136(a).

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06 JUN 2006

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In re Application of :
VARKI et al. :
U.S. Application No.: 10/565,742 : DECISION ON PETITION
PCT No.: PCT/US04/22415 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 14 July 2004 :
Priority Date: 15 July 2003 :
Attorney Docket No.: XUCSD.TBA :
For: METHODS FOR DETECTING AND ANALYZING N-GLYCOLYNLNEURAMINIC ACID (NEU5GC) IN BIOLOGICAL MATERIALS :

The petition to revive under 37 CFR 1.137(b) filed 02 June 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the required reply 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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OFFICE OF PETITIONS

In re Application of	:	
Ajit Varki et al.	:	
Application No. 10/565,742	:	DECISION ON PETITION
Filed: June 25, 2007	:	TO WITHDRAW
Attorney Docket No. XUCSD.TBA	:	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 18, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Buchanan Ingersoil & Rooney LLP**
12230 El Camino Real, Suite 300
San Diego, CA 92130

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/21/2010

Applicant	: Kazuo Sato	: DECISION ON REQUEST FOR
Patent Number	: 7594613	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/565,775	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **164** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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22 FEB 2006

JACOBSON HOLMAN PLLC
400 7th Street, NW, Suite 600
Washington, DC 20004

In re Application of:	:	
WORSOEE, Bjarne,, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/565,794	:	UNDER 37 CFR 1.137(b)
PCT Application No.: PCT/DK2004/000071	:	
Int'l Filing Date: 03 February 2004	:	
Priority Date: 03 February 2003	:	
Attorney's Docket No.: P71099US0	:	
For: AN OSTOMY SUPPORT GARMENT	:	

The petition to revive under 37 CFR 1.137(b) filed 25 January 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

Applicants have now submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the United States of America.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090804

DATE : August 7, 2009

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction on Patent No.: 10/565,861

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /BRAIN WERNER/ **Art Unit** 2624

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PATENT LEGAL STAFF
EASTMAN KODAK CO.
343 STATE STREET
ROCHESTER, NY 14650-2201

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JUL 0 1 2008

OFFICE OF PETITIONS

Applicant: Prigent
Appl. No.: 10/565,862
International Filing Date: July 10, 2004
Title: METHOD OF DIGITAL EXPOSURE MODIFICATION OF IMAGES
Attorney Docket No.: 86218WRZ
Pub. No.: US 2007/0109405 A1
Pub. Date: May 17, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 31, 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 data in the preliminary amendment of January 24, 2006 was not published

37 CFR 1.221 (b) is applicable "only when the Office makes **a material mistake** which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error noted by requestor with respect to the preliminary amendment is not an Office error. The patent application publication does not include a mistake regarding the failure to include the preliminary amendment 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:

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).
[2] Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

> (a) . . . The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. **The patent application publication may also be based upon amendments** to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b), amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun. (emphasis added)

§ 1.215(c) says the following:

(c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment. The Office changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Until 2004, patent application publications were published as originally filed. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004) and MPEP 1121. Applicant did not file a copy of the application in compliance with the electronic filing system requires as a "Pre-Grant Publication" nor did he file a specification, which incorporated the preliminary amendment. See Pre-Grant Publication Helpful Hint: File Continuation or Divisional Application with a New Specification and Copy of Oath or Declaration from Prior Application, 1251 Off. Gaz. Pat. Office Notices 54 (Oct. 9, 2001).

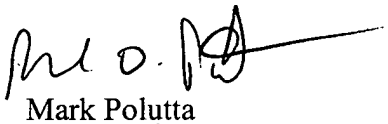
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

27 FEB 2006

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KNOBLE, YOSHIDA & DUNLEAVY
EIGHT PENN CENTER
SUITE 1350, 1628 JOHN F KENNEDY BLVD
PHILADELPHIA PA 19103

In re Application of
KAMINENI, Satya et al.
Application No.: 10/565,880
PCT No.: PCT/US03/35337
Int. Filing Date: 05 November 2003
Priority Date: 12 March 2003
Docket No.: CCK-0107US
For: CONTAINER EXHIBITING IMPROVED TOP LOAD PERFORMANCE

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

Applicants' "Petition For Revival of an International Application For Patent Designating the United States Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 23 January 2006 is **GRANTED**.

Applicants state that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted. The fee for late furnishing of the search fee, examination fee or oath or declaration will be charged to deposit account no. 50-0462, as authorized.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Per Lothe	: DECISION ON REQUEST FOR
Patent Number	: 7625438	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/565,890	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **673** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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NORRIS, MCLAUGHLIN & MARCUS
875 THIRD AVE
18TH FLOOR
NEW YORK, NY 10022

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In re Application of	:	
Shaun Patrick Rymer, et al.	:	
Application No. 10/565,893	:	DECISION ON PETITION
Filed: September 22, 2006	:	
Attorney Docket No. 102792-518 (11296P1 US)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 9, 2008, 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, November 15, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 16, 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 $1540, and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 3752 for appropriate action by the Examiner in the normal course of business on the reply received September 9, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

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MAR 2 2 2007

OFFICE OF PETITIONS

In re Application of :
Dominique P. Bridon, et al. :
Application No. 10/565,900 : DECISION ON PETITION
Filed: January 24, 2006 : TO WITHDRAW
Attorney Docket No. 500862003600 : 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 9, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael R. Ward on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DOMINIQUE P. BRIDON
2167 BAY STREET
SAN FRANCISCO, CA 94123

cc: ADRIANE M. ANTLER PH.D.
222 EAST 41ST STREET
NEW YORK, NY 10017-6702

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/565,900	01/24/2006	Dominique P. Bridon	500862003600

CONFIRMATION NO. 6100

OC000000022945410

OC000000022945410

20872
MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

Date Mailed: 03/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/09/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/20/2010

Applicant	: Shigeo Akamatsu	: DECISION ON REQUEST FOR
Patent Number	: 7664145	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/565,906	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1059** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Alexandria, VA 22313-1450
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14 AUG 2006

BAYER MATERIAL SCIENCE LLC
100 BAYER ROAD
PITTSBURGH PA 15205

In re Application of	:	
HAIML et al.	:	
Application No.: 10/565,909	:	DECISION ON
PCT No.: PCT/EP2004/007176	:	
Int. Filing Date: 01 July 2004	:	PETITION UNDER
Priority Date: 23 July 2003	:	
Attorney Docket No.: PO8734/BTS054034	:	37 CFR 1.137(b)
For: ANALYTICAL SYSTEM, AND METHOD FOR ANALYZING NONLINEAR OPTICAL SIGNALS	:	

This decision is in response to applicant's submission filed 25 January 2006.

BACKGROUND

On 01 July 2004, applicant filed international application PCT/EP2004/007176 which designated the U.S. and claimed a priority date of 23 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 03 March 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 23 January 2006.

On 25 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, an English translation of the international application, 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 25 January 2006.

As to item (2), applicant submitted the petition fee on 25 January 2006.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b), the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage, and the processing fee under 37 CFR 1.492(i) for furnishing an English translation later than thirty months from the earliest priority date claimed.

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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Paper No.

DOW CORNING CORPORATION CO1232
2200 W. SALZBURG ROAD
P.O. BOX 994
MIDLAND MI 48686-0994

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OFFICE OF PETITIONS

In re Application of :
Cheng et al. : DECISION ON PETITION
Application No. 10/565,916 :
Filed: January 25, 2006 :
Atty Docket No. DC5157 PCT1 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINENTIONALLY UNDER 37 CFR 1.137(b) filed January 5, 2009.

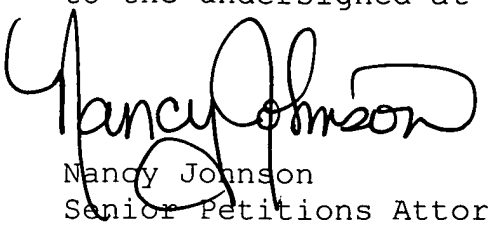
The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the restriction requirement sent June 18, 2008. This Office action set a shortened statutory period for reply of one (1) month, with extensions of time obtainable under § 1.136(a). No reply timely filed and no extension of time obtained, the application became abandoned effective July 19, 2008. A courtesy Notice of Abandonment was sent on January 8, 2009.

The petition includes the required reply in the form of an election, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 2813 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed January 5, 2009.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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BELL, BOYD & LLOYD, LLC
P. O. BOX 1135
CHICAGO IL 60690-1135

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NOV 14 2006

OFFICE OF PETITIONS

In re Application of :
Tsuboi et al. :
Application No. 10/565,918 :
Filing or 371(c) Date: 01/24/2006 : DECISION
Attorney Docket Number: 112857-521 : ON PETITION

This is a decision on the Petition to Request Correction of Filing Date, filed September 28, 2006. The petition is properly treated under 37 CFR 1.10(c).

This Petition is hereby **granted**.

Petitioner alleges that the application was deposited in Express Mail service on January 24, 2006. In support of this assertion, the petition is accompanied by a copy of Express Mail label No. EV551747538US. A review of the Express Mail label, No. EV551747538US, reveals that the "Date In" indicated on the Express Mail label is January 24, 2006. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No fee has been charged and none is due.

The application is being referred to the Office of Initial Patent Examination for correction of the filing date to January 24, 2006, and for the mailing of a Corrected Filing Receipt.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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9 FEB 2006

Michael R. Reinemann
88 Black Falcon Avenue
Boston MA 02210

In re Application of	:	DECISION ON
Stephen B. Murphy	:	
Application No.: 10/565,921	:	
PCT No.: PCT/US2004/017265	:	
Int. Filing Date: 01 June 2004	:	PETITION UNDER
Priority Date: 02 June 2003	:	
Attorney's Docket No.: 103068-003U	:	
For: VIRTUAL TRIAL REDUCTION SYSTEM	:	
FOR HIPARTHROPLASTY AND COORDINATE	:	
SYSTEMS THEREFOR	:	37 CFR 1.137(b)

This decision is in response to applicants' "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 25 January 2006.

BACKGROUND

On 01 June 2004, this international application was filed, claiming an earliest priority date of 02 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 02 December 2005. This international application became abandoned with respect to the United States at midnight on 02 December 2005 for failure to pay the required basic national fee.

On 25 January 2006, 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 ready for continued processing by the United States Designated/Elected Office (DO/EO/US).

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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SMITH, GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3592

Mail Date: 04/21/2010

Applicant	: Juan Dong	: DECISION ON REQUEST FOR
Patent Number	: 7582170	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/565,925	: OF WYETH
Filed	: 08/21/2006	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SLATER & MATSIL, L.L.P.
17950 PRESTON RD, SUITE 1000
DALLAS, TX 75252-5793

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FEB 12 2010

In re Application of :
Kevin R. Boyle :
Application No.: 10/565,928 : ON PETITION
Filed: January 20, 2006 :
Attorney Docket No.: EPC-014 :

This is a decision on the petition, filed February 5, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 1, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2821 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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17950 PRESTON RD
SUITE 1000
DALLAS, TX 75252-5793

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JUL 02 2010

OFFICE OF PETITIONS

In re Application of :
Kevin R. Boyle :
Application No. 10/565,928 : DECISION GRANTING PETITION
Filed: January 20, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. EPC-014 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 1, 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 May 21, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2821 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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VINSON & ELKINS, L.L.P.
1001 FANNIN STREET
2300.FIRST CITY TOWER
HOUSTON, TX 77002-6760

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JAN 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Anthony Stevenson, et al.	:	
Application No. 10/565,951	:	DECISION ON PETITION
Filed: August 7, 2006	:	TO WITHDRAW
Attorney Docket No. INV850/4-32US/58012	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 15, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Vinson & Elkins, LLP has been revoked by the assignee of the patent application on November 20, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: INVITROGEN CORPORATION
C/O INTELLEVATE
PO BOX 52050
MINNEAPOLIS, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Yusai Murakami	: DECISION ON REQUEST FOR
Patent Number	: 7557584	: RECALCULATION of PATENT
Issue Date	: 07/07/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/565,956	: OF WYETH
Filed	: 01/26/2006	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KANESAKA BERNER AND PARTNERS LLP
1700 DIAGONAL RD
SUITE 310
ALEXANDRIA VA 22314-2848

OCT 17 2007

In re Application of	:	
JUN NAKAMURA	:	DECISION ON REQUEST TO
Application No. 10/565983	:	PARTICIPATE IN PATENT
Filed: FEBRUARY 21, 2006	:	PROSECUTION HIGHWAY
Attorney Docket No. **OHA-059**	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed October 1, 2007, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition fail to include:

Item 5 above. Specifically,

- A copy of the office action from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation is partially filed, i.e. incomplete.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to John Peng at 571-273-7272 (RightFax) or 571-273-0308.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

John Peng
TC 2600
Quality Assurance Specialist

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KANESAKA BERNER AND PARTNERS LLP
1700 DIAGONAL RD
SUITE 310
ALEXANDRIA VA 22314-2848

OCT 24 2007

In re Application of	:	
JUN NAKAMURA	:	DECISION ON REQUEST TO
Application No. 10/565983	:	PARTICIPATE IN PATENT
Filed: February 21, 2006	:	PROSECUTION HIGHWAY
Attorney Docket No. **OHA-059**	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed October 23, 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 John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

Serial No. 10/565,983

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OHA-059

Applicant : Jun NAKAMURA et al.

Title : MOVING IMAGE DISTRIBUTION SYSTEM, MOVING IMAGE DIVIDING SYSTEM, MOVING IMAGE DISTRIBUTION PROGRAM, MOVING IMAGE DIVIDING PROGRAM, AND RECORDING MEDIUM STORING MOVING IMAGE DISTRIBUTION PROGRAM AND/OR MOVING IMAGE DIVIDING PROGRAM

Serial No. : 10/565,983

Filed : February 21, 2006

Group Art Unit : 2623

Hon. Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313

October 23, 2007

Att: Mr. John Peng

Dear Sir:

As talked to you by telephone today, I am sending herewith by fax copies of Japanese Office Action I have and a translation thereof.

Please advise if the copies are sufficient or not.

Respectfully submitted,

Manabu Kanesaka
Registration No. 31,467

1700 Diagonal Road, Suite 310
Alexandria, Virginia 22314
Tel: (703) 519-9785
Facsimile: (703) 519-7769

PAGE 1/5 * RCVD AT 10/23/2007 2:00:51 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/22 * DNIS:2737272 * CSID:7035185499 * DURATION (mm-ss):01-24

10455-PCT/JP

提出期限	18.7.24

整理番号: 発送番号:206648 発送日:平成18年 5月24日 1

拒絶理由通知書

特許出願の番号	特願２００５－５１３４０８	
起案日	平成１８年　５月１６日	
特許庁審査官	川崎　優	８９４４　５Ｃ００
特許出願人代理人	大原　拓也　様	
適用条文	第３６条	

受付 18.5.24 大原特許事務所

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

この出願は、特許請求の範囲の記載が下記の点で、特許法第３６条第６項第２号に規定する要件を満たしていない。

記

請求項１，１１，１３，１４について：
当該請求項の記載では、
・「ＣＭファイル」が主従２つの再生不能な動画ファイルを再生可能な状態にするにあたりどのような意義があるのか、
不明である。

請求項１１，１５，１７について：
当該請求項は「・・・ステップを有する・・・プログラムにおいて、・・・・ステップを備えていることを特徴とする・・・プログラム」のように記載されているが、「プログラム」という物の発明が「ステップを有する（備える）」という記載は技術的に不明である。
（「～からなる・・・システムに、・・・ステップ、・・・ステップを実行させるためのプログラム」のように記載することが必要である）

この拒絶理由通知書中で指摘した請求項以外の請求項に係る発明については、現時点では、拒絶の理由を発見しない。拒絶の理由が新たに発見された場合には拒絶の理由が通知される。

先行技術文献調査結果の記録

・調査した分野　　ＩＰＣ　H04N7/16-173, G06F13/00, G06F15/00, G06Q30/00

整理番号: 発送番号:206648 発送日:平成18年 5月24日 2/E

ＤＢ名

・先行技術文献

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ありません。

Forwarding No.: 206648 Forwarding Date: May 24, 2006

Office Action

Patent Application No. :	Japanese Patent Application 2005-513408	
Drafting Date:	May 16, 2006	
Examiner:	Suguru Kawasaki	8944 5C00
Agent of Patent Applicant:	Mr. Takuya Ohara	
Applicable Article:	Article 36	

This application is rejected for reasons as follows. Any responses must be filed within 60 days of the date of the Office Action.

Reasons

A description of the scope of the application does not satisfy the requirements set forth in the patent law, Article 36, Section 6.2, as follows.

Details

Claims 1, 11, 13, and 14

Said claims are unclear about:

- Significance of the CM file to decrypt two not-reproducible moving image files, a main moving image file and a slave moving image file, to make them reproducible.

Claims 11, 15, and 17

Said claims are explained "A ...program having ... steps, the ... program comprising ...steps". However, the description that the invention of the "program" has (comprises) "steps", is unclear in technical aspects.
(It is required to be rewritten in such a language that "a program for executing ... step, ... step, and ... step in a ...system comprising: ~ ")

No rejection is entered on claims other than the claims indicated above in the Office Action. Should a new rejection be found, the applicant will be notified of reasons for the rejection.

PAGE 4/5 * RCVD AT 10/23/2007 2:00:51 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/22 * DNIS:2737272 * CSID:7035185499 * DURATION (mm-ss):01-24

Forwarding No.: 206648 Forwarding Date: May 24, 2006

Record of Prior Art Document Search Result

- Field of the Search: IPC H04N7/16-173, G06F13/00, G06F15/00, G06Q30/00

Name of DB

- Prior Art Documents:

The record of the prior art document search result is not taken into the consideration for the Office Action.

PAGE 5/5 * RCVD AT 10/23/2007 2:00:51 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/22 * DNIS:2737272 * CSID:7035185499 * DURATION (mm-ss):01-24

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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 04/20/2010

Applicant	: Yew Kee Wong	: DECISION ON REQUEST FOR
Patent Number	: 7591612	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/565,985	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **181** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WORKMAN NYDEGGER/POWER MEASUREMENT
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

MAILED

MAR 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Gunn et al.	:	DECISION ON PETITION
Application No. 10/566,007	:	TO WITHDRAW
Filed: June 18, 2008	:	FROM RECORD
Attorney Docket No. SPL-0158-1/247181-000606U	:	

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 20, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on January 28, 2010 the power of attorney to Workman Nydegger/Power Measurement was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: SCHNEIDER ELECTRIC / SQUARE D COMPANY
LEGAL DEPT. - I.P. GROUP (NP)
1415 S. ROSELLE ROAD
PALATINE IL 60067

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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

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AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Josef Baumgartner et al. :
Application No. 10/566,011 : ON PETITION
Filed: January 25, 2006 :
Attorney Docket No. 2003P0850WOUS :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of October 8, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time were obtained. Accordingly, the date of abandonment of this application is January 9, 2009. A Notice of Abandonment was mailed on April 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 RCE (Request for Continued Examination), with the required fee of $810, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2618 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

14 JUL 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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WILLIAM COLLARD
COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN NY 11576

In re Application of HEINZ BLÖMELING Serial No.: 10/566,013 PCT No.: PCT/EP04/08202 Int. Filing Date: 22 July 2004 Priority Date: 25 July 2003 Attorney's Docket No.: BLÖMELING-4 (PCT) For: SOUND-INSULATING COMPOSITE COMPONENT AND METHODS FOR THE PRODUCTION THEREOF	:	DECISION ON PETITION UNDER 37 CFR 1.10(c)

This decision is in response to applicant's "PETITION TO ACCORD A CORRECT FILING DATE UNDER 37 CFR 1.10", filed 22 February 2006, to accord a filing date of 25 January 2006 to the above-identified application papers. No petition fee is required.

BACKGROUND

On 22 July 2004, applicant filed international application No. PCT/EP04/08202, which claimed a priority date of 25 July 2003 and which designated the United States. The deadline for payment of the basic national fee was to expire 30 months from the priority date, or on 25 January 2006.

On 25 January 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 22 February 2006, applicant filed the present petition, which included a copy of the Customer Receipt of the "Express Mail" mailing label #EV786960664US and a USPS Track and Confirm Statement.

DISCUSSION

A review of the application file reveals that the response to the Notification of Missing Requirements filed on 18 June 2004 is not located therein. A review of the USPTO finance records for this application does indicate that the surcharge for filing the oath or declaration after the thirty month was paid.

Applicant requests that the national stage papers be accorded a filing date of 25 January 2006. A review of the Express Mail label #EV786960664US reveals that it was addressed to the "Mail Stop PCT, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450". The entry in the "Date In" box on the Express Mail Customer Copy indicates "1/26/06". A review of the USPS Track and Confirm Statement indicates that Express Mail label #EV786960664US was

accepted on 25 January 2006, at 4:41pm Roslyn, NY 11576.

This is sufficient evidence to establish with reasonable certainty that the national stage papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 25 January 2006. Specifically, the Express Mail label #EV786960664US is the same number that appears on the Transmittal Letter. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal Letter together such that it is clear that the national stage papers were deposited on 25 January 2006.

CONCLUSION

Applicant's petition requesting that the national stage papers be accorded a receipt date of 25 January 2006 is **GRANTED**.

The application is being returned to the DO/EO/US for processing in accordance with this decision. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **25 January 2006**.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 571-272-3286

30 JUN 2006

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WILLIAM COLLARD
COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN NY 11576

In re Application of:	:	
FLOSSNER, Uwe	:	DECISION ON PETITION TO
U.S. Application No.: 10/566,014	:	CORRECT FILING DATE
PCT No.: PCT/DE2004/002005	:	(37 CFR 1.10(d))
International Filing Date: 09 September 2004	:	
Priority Date: 16 September 2003	:	
Atty Docket No.: FLOSSNER-1 (PCT)	:	
For: FASTENING SYSTEM	:	

This decision is issued in response to the "Petition To Accord A Correct Filing Date Under 37 CFR 1.10" filed 22 February 2006, treated herein under 37 CFR 1.10(d). No petition fee is required.

BACKGROUND

On 09 September 2004, applicant filed international application PCT/DE2004/002005. The application claimed a priority date of 16 September 2003 and designated the United States. On 31 March 2005, the International Bureau (IB) communicated a copy of the international application was communicated to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 16 March 2006.

In January 2006, applicant filed via "Express Mail" a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, and executed declaration, and a translation of the international application into English. The USPTO assigned the submission a filing date of 26 January 2006, corresponding to the "date in" on the "Express Mail" envelope used to file the application materials.

On 22 February 2006, applicants filed the petition considered herein. The petition asserts that the "Express Mail" envelope containing the present application was deposited with the USPS on 25 January 2006, and that the filing date for these materials should therefore be corrected to 25 January 2006.

DISCUSSION

As noted above, applicants assert that the materials filed to initiate the present national stage application were deposited with the USPS as "Express Mail" on 25 January 2006 and that the USPS entered the handwritten "date in" of 26 January 2006 in error.

37 CFR 1.10(d) states the following:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Applicant has satisfied all the requirements for a grantable petition. With respect to item (2), the Form PTO-1390 Transmittal Letter filed with the original application materials identified the "Express Mail" label number (EV786960664US). With respect to the showing required under item (3), applicant has provided a copy of the USPS "Track/Confirm" information for the "Express Mail" envelope which indicates that the envelope was accepted by the USPS on 25 January 2006. In addition, a review of the USPS online tracking database confirms that the USPS accepted receipt of this envelope on 25 January 2006.

Based on the above, applicant has provided an acceptable showing that the submission initiating this national stage application was deposited with the USPS as "Express Mail" on 25 January 2006. These materials will therefore properly be accorded a filing date of 25 January 2006.

CONCLUSION

Applicants' petition under 37 CFR 1.10(d) is **GRANTED**. The materials initiating the present international application, including the basic national fee, translation of the international application, and the declaration, will be accorded a filing date of 25 January 2006.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including correcting

USPTO records to identify the filing date of the basic national fee and accompanying materials to 25 January 2006. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 25 January 2006.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

20 MAR 2008

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Saliwanchik Lloyd & Saliwanchik
A Professional Corporation
P.O. Box 142950
Gainesville, FL 32614-2950

In re Application of	:	
KHAN, et al.	:	DECISION ON PETITION
Serial No.: 10/566,021	:	
PCT No.: PCT/GB04/03219	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 26 July 2004	:	
Priority Date: 30 July 2003	:	
Atty Docket No.: GJE-7547	:	
For: LASER-MARKABLE COMPOSITIONS	:	

This decision is in response to the "Petition to File Application Without Signature of Joint Inventor" filed 20 December 2007. The petition is being considered under 37 CFR 1.47(a) to accept the application without the signature of co-inventor Dr. Nazir Khan.

BACKGROUND

On 26 July 2004, applicant filed international application PCT/GB04/03219 which claimed priority to a previous application filed 30 July 2003. A copy of the international application was transmitted to the United States on 10 February 2005. Pursuant to 37 CFR 1.495 the period for providing payment of the full, U.S. Basic National Fee was set to expire thirty months from the priority date, or midnight 30 January 2006.

On 25 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 17 October 2007, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors was required, as well as, payment of the $130.00 surcharge for providing an executed oath or declaration later than thirty months from the earliest claimed priority date. Applicant was afforded two months to file a proper response.

On 20 December 2007, applicant filed the present petition under 37 CFR 1.47(a) accompanied by certification under 37 CFR 1.8 that the filing was deposited with the United States Postal Service as a first class mailing on 17 December 2007. Therefore, applicant's response is considered timely filed.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant has satisfied items 1, 2 and 4.

Regarding item 3, the present petition does not provide the last known address of Dr. Khan. The address is necessary for the USPTO to provide Dr. Khan a notice of the filing of this application pursuant to 37 CFR 1.47(c).

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 571-272-3294
Fax: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

29 JUL 2008

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Saliwanchik Lloyd & Saliwanchik
A Professional Association
P.O. Box 142950
Gainesville, FL 32614-2950

In re Application of	:	
KHAN, et al.	:	DECISION ON RENEWED
Serial No.: 10/566,021	:	
PCT No.: PCT/GB04/03219	:	PETITION UNDER
Int. Filing Date: 26 July 2004	:	
Priority Date: 30 July 2003	:	37 CFR 1.47(a)
Atty Docket No.: GJE-7547	:	
For: LASER-MARKABLE COMPOSITIONS	:	

This decision is in response to applicant's renewed petition under 37 C.F.R. § 1.47 filed 29 June 2008 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of co-inventor, Nazir Khan.

BACKGROUND

On 20 March 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.

On 29 June 2008, applicant filed the present renewed petition under 37 CFR 1.47(a) accompanied by a petition for a two-month extension of time. The response is considered timely filed.

DISCUSSION

As detailed in the decision mailed 20 March 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 items1, 2 and 4.

Applicant has presently provided the last known address of Dr. Khan thus satisfying the remaining element.

In light of the above, it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons discussed above, applicant's renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 26 July 2004 under 35 U.S.C. 363, and will be given a date of **20 December 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known addresses of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 571-272-3294
Fax: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

29 JUL 2008

Commissioner for Patents
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Dr. Nazir Khan
6 Hillingdon Avenue
Nuthall
Nottingham
NG16 1RA
UNITED KINGDOM

In re Application of
KHAN, et al.
Serial No.: 10/566,021
PCT No.: PCT/GB04/03219
Int. Filing Date: 26 July 2004
Priority Date: 30 July 2003
Atty Docket No.: GJE-7547
For: LASER-MARKABLE COMPOSITIONS

Dear Dr. Khan:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, the law firm of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Derek A. Putonen
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David R. Saliwanchik
Saliwanchik Lloyd & Saliwanchik
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UNITED STATES OF AMERICA

UNITED STATES PATENT AND TRADEMARK OFFICE

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23 FEB 2006

MADSON & AUSTIN
GATEWAY TOWER WEST
SUITE 900
15 WEST SOUTH TEMPLE
SALT LAKE CITY UT 84101

In re Application of REYNARD
Application No.: 10/566,023
PCT No.: PCT/GB04/02220
Int. Filing: 24 May 2004
Priority Date: 24 May 2003
Attorney Docket No.: 1512.2.161
For: CUSTOMS SEAL FOR FREIGHT CONTAINER DOOR

DECISION ON

PETITION TO REVIVE

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 25 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 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 25 January 2006.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
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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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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

Mail Date: 04/21/2010

Applicant	: Makoto Iwai	: DECISION ON REQUEST FOR
Patent Number	: 7659419	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/566,027	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/01/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **45** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

28 FEB 2006

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COMMISSIONER FOR PATENTS
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Amy E. Rinaldo
Kohn & Associates, PLLC
30500 Northwestern Hwy., Suite 410
Farmington Hills, MI 48334

In re Application of ZORA	:	
U.S. Application No.: 10/566,038	:	
PCT Application No.: PCT/US03/22959	:	DECISION
Int. Filing Date: 22 July 2003	:	
Priority Date Claimed: 25 July 2002	:	
Attorney Docket No.: 7127.00005	:	
For: CASINO CARD GAME	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 25 January 2006.

BACKGROUND

On 22 July 2003, applicant filed international application PCT/US03/22959, which claimed priority of an earlier United States application filed 25 July 2002. The thirty-month period for paying the basic national fee in the United States expired on 25 January 2005.

International application PCT/US03/22959 became abandoned as to the United States for failure to timely pay the basic national fee.

On 25 January 2006, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a properly executed 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

26 AUG 2008

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Hutchison & Mason PLLC
P.O. Box 31686
Raleigh, North Carolina 27612

In re Application of	:	DECISION ON
LYSENKO et al	:	
Application No.: 10/566,041	:	
PCT No.: PCT/FR2004/050358	:	
Int. Filing Date: 27 July 2004	:	PETITION UNDER
Priority Date: 28 July 2003	:	
Attorney Docket No.: BRV.10045	:	
For: HYDROGEN RESERVOIR BASED	:	
ON SILICON NANO-STRUCTURES	:	37 CFR 1.181

This decision is in response to the "REQUEST FOR CORRECTED NOTIFICATION OF ACCEPTANCE OF APPLCATION UNDER 35 USC AND 37 CFR 1.495" filed 18 December 2006, which is being treating as a petition under 37 CFR 1.181, requesting that the correct date of filing date under 371(c) be changed from 13 October 2006 to 26 January 2006.

BACKGROUND

On 26 January 2006, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application as required by 35 U.S.C. 371(c)(2). However, an executed declaration was not submitted at such time.

On 02 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date." The Notice stated that the declaration must be submitted within two months from the date of this notice or 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 13 October 2006, applicants filed a second transmittal letter, which was accompanied by, inter alia, an executed declaration.

On 08 December 2006, the USPTO mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 C.F.R. 1.495 (Form PCT/DO/EO/903)," indicating that date of receipt of 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements is 13 October 2006, and a date of completion of all 35 USC 371 requirements is 13 October 2006.

On 18 December 2006, applicants filed the current petition pursuant 37 CFR 1.181 requesting a corrected filing receipt, stating that the correct filing date under 35 USC 371(C) is 26 January 2006, and not what is shown in the filing receipt as 13 October 2006.

DISCUSSION

The filing receipt correctly indicates that the National Stage papers were received on 26 January 2006. It indicates, *inter alia*, that a copy of the international application, and a copy of the international search report 26 January 2006. The U.S. basic national fee was received on 26 January 2006 and not as stated in the filing receipt- 13 October 2006.

However, the date that applicants competed the requirements under section (c) of 35 USC 371 is 13 October 2006, which is the date that an executed declaration was filed with the Office, and it is the date that the applicable sections of 35 USC 371 were met.

Accordingly, the date of receipt of 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements is 13 October 2006, and a date of completion of all 35 USC 371 requirements is 13 October 2006, which the date that a proper executed declaration was filed in the application.

Thus, the filing receipt shows the correct date, which is 13 October 2006.

DECISION

The petition under 37 CFR 1.181 is **DISMISSED**.

If reconsideration of the merits of the petition under 37 CFR 1.181 is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

United States Patent and Trademark Office

0 9 JUN 2009

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

BRINKS, HOFER, GILSON & LIONE
P.O. BOX 1340
MORRISVILLE NC 27560

In re Application of LYSENKO et al.
Application No.: 10/566,041
PCT No.: PCT/FR2004/050358
Int. Filing Date: 27 July 2004
Priority Date: 28 July 2003
Attorney Docket No: 13885-3
For: HYDROGEN RESERVOIR BASED ON SILICON NANO-STRUCTURES

DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicants' "THIRD REQUEST FOR CORRECTED NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 C.F.R. 1.495" filed in the United States Patent and Trademark Office (USPTO) on 21 January 2009, which is being treated herein as a petition under 37 CFR 1.181, requesting that the date of receipt of the U.S. Basic National Fee be changed from 13 October 2006 to 26 January 2006.

BACKGROUND

On 26 January 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a copy of the international application as required by 35 U.S.C. 371(c)(2).

One 08 December 2006, the USPTO mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER USC 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903), indicating the date of receipt of 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements as 13 October 2006 and the date of completion of all 35 USC 371 requirements as 13 October 2006.

On 21 January 2009, applicant filed the current petition pursuant 37 CFR 1.181 requesting a corrected filing receipt, stating the correct receipt date of the U.S. Basic National Fee as 26 January 2006.

DISCUSSION

A review of USPTO records indicates that authorization to charge the U.S. Basic National Fee to deposit account 503218 was received on 26 January 2006. The date indicated on the Notice of Acceptance mailed on 08 December 2006 was incorrect.

CONCLUSION

For the reasons detailed above, applicants' petition under 37 CFR 1.181 is **GRANTED**.

This application is being referred to the National Stage Processing (DO/EO/US) to vacate the 08 December 2006 Notice of Acceptance and for preparation and mailing of a corrected Notice of Acceptance which should indicate that the U.S. Basic National Fee was filed on 26 January 2006.

Sarah McPartlin
Office of PCT Legal Administration
(571) 272-6095

Leonard Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,042	02/08/2008	John Thomas Flanagan	FAKS/0003	9420

26290 7590 02/11/2009

PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056

EXAMINER	
ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
02/11/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed: February 11, 2009

PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

Applicant: Flanagan
Appl. No.: 10/566,042
Filing Date: February 8, 2008
Title: SYSTEM AND METHOD FOR FACILITATING RESPONSIBLE BEHAVIOUR
Attorney Docket No.: FAKS/0003
Pub. No.: US 2008/0199838 A1
Pub. Date: August 21, 2008

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on February 5, 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**. 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.** 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

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: 02/12/2009 KKING1
02/05/2009 INTEFSW 00009882 10566042
01 FC:1504 -300.00 DP

Refund Ref:
02/12/2009 0030066590

Credit Card Refund Total: $300.00

Am Exp..: XXXXXXXXXX1106

06 FEB 2007

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S. Peter Ludwig
Darby & Darby, P.C.
P.O. Box 5257
New York, NY 10150-5257

In re Application of :
YAMAMOTO, et al. :
Application No.: 10/566,057 :
PCT No.: PCT/JP04/10929 : DECISION ON PAPERS
Int. Filing Date: 30 July 2004 :
Priority Date: 01 August 2003 : UNDER 37 CFR 1.42
Attorney Docket No.: 04703/0203798-US0 :
For: BIOLOGICALLY NON-DEGRADABLE :
PEPTIDES, ANGIOTENSIN :
CONVERTING ENZYME INHIBITOR, :
DRUG AND FUNCTIONAL FOOD :

This decision is in response to the applicant's declaration filed 02 February 2007 in the United States Patent and Trademark Office (USPTO). The filed declaration is being treated as a request for status pursuant to 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 30 July 2004, applicant filed international application PCT/JP04/10929, which claimed priority to an earlier application filed 01 August 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 thirty-month period for paying the basic national fee in the United States expired at midnight on 01 February 2006.

On 25 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and an Information Disclosure Statement.

On 12 September 2006, applicant filed an executed combined declaration and power of attorney.

On 02 February 2007, applicant filed a supplemental combined declaration and power of attorney.

DISCUSSION

37 CFR 1.42 When the Inventor is Dead, states, in part:

"In case of the death of the inventor, the legal representative (executor, administrator,

etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Applicant's originally filed declaration of 12 September 2006 was non-compliant under 37 CFR 1.497(b) as it did not provide the citizenship, residence, and mailing address of both the deceased inventor and the legal representative. Applicant has presently provided a newly executed declaration which provide all of the required information for both the deceased inventor, Shingo Nishimura and the legal representative, Hideo Nishimura. Therefore, it is appropriate to grant applicant's petition at this time.

CONCLUSION

Applicant's request for status under 37 CFR 1.42 is **GRANTED**.

This application has an international application filing date of 30 July 2004 and will be given a date of **02 February 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
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WINSTEAD PC
WINSTEAD PC
P. O. BOX 50784
DALLAS TX 75201

MAILED

APR 20 2009

OFFICE OF PETITIONS

Applicant: Strano, et al.
Appl. No.: 10/566,073
Filing Date: January 26, 2006
Title: SELECTIVE FUNCTIONALIZATION OF CARBON NANOTUBES
Attorney Docket: 1321-P071WOUS
Pub. No.: US 2008/0063587 A1
Pub. Date: March 13, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on October 10, 2008, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein the assignee data is improperly listed as "Board of Trustees of the University of Illinois" when the correct assignee is "William Marsh Rice University".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which isoapparent 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 10, 2008, was not timely filed under 37 CFR 1.221(b).

Even if the request had been timely filed the request would have been dismissed as the incorrect assignee data is not a material mistake since it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent

[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).

application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. See MPEP 1130. Furthermore, it is noted that the assignees listed on the ADS filed with the application lists both the "Board of Trustees of the University of Illinois" and "William Marsh Rice University".

On December 3, 2007, a Filing Receipt was mailed by the Office, which improperly listed the assignment information. To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt prior to publication of the application.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

17 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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DREISS, FUHLENDORF, STEIMLE & BECKER
POSTFACH 10 37 62
D-70032 STUTTGART
GERMANY

In re Application of	:	
KLEY-BOSLER, Anton	:	
Application No.: 10/566,080	:	DECISION
PCT No.: PCT/EP04/00763	:	
Int. Filing Date: 29 January 2004	:	ON PETITION UNDER
Priority Date: 09 April 2003	:	
Docket No.: 4212 0236US	:	37 CFR 1.137(b)
For: PAD PRINTER	:	

Applicants' "Petition Under 37 C.F.R. 1.137(b)," filed in the above-captioned application on 27 January 2006 is **GRANTED**.

Applicants state that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been paid. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted. The fees for late filing of the search fee, examination fee or oath or declaration and for late filing of the translation will be charged to deposit account no. 50-1030, as authorized.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

20 DEC 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Sim & McBurney
330 University Avenue
6th Floor
Toronto Ontario
Canada M5G 1R7

In re Application of :
GREEN, et al. :
Serial No.: 10/566,082 : DECISION ON PETITION
PCT No.: PCT/CA04/01433 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 30 July 2004 :
Priority Date: 01 August 2003 :
Attorney Docket No.: 7865276MISjb :
For: PROCESS FOR PREPARATION OF :
FLAX PROTEIN ISOLATE

This decision is issued in response to applicant's "Petition to Accept Application under Rule 37 CFR 1.47(a)" filed 18 October 2006 to accept the application without the signature of joint inventor, Radka Milanova.

BACKGROUND

On 30 July 2004, applicant filed international application PCT/CA04/01433 which claimed priority to a previous application filed 01 August 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 deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 01 February 2006.

On 27 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and an application data sheet.

On 05 May 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed.

On 18 October 2006, applicant filed the present petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor Radka Milanova.

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) and (4).

Applicant states in the present petition that Radka Milanova has refused to execute the application. Section 409.03(d) of the MPEP, **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner states that Radka Milanova has refused to execute the application. A review of the present petition and the accompanying papers reveals that applicants have not satisfied item (2) above, in that, the applicants have not shown that a bona fide attempt was made to present the application papers to Radka Milanova. Michael I. Stewart states that he mailed a copy of the application papers to Radka Milanova on 10 July 2006. A copy of the cover letter has been provided. However, petitioner fails to include evidence to

demonstrate that the materials were actually received by the nonsigning inventor at his/her last known address. Where the Office is being asked to accept the silence of the nonsigning inventor as evidence of a refusal to sign, petitioner must provide some evidence that the application materials have been received by the nonsigning applicant.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is DISMISSED.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." 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.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

25 APR 2007

Sim & McBurney
330 University Avenue
6th Floor
Toronto Ontario
Canada M5G 1R7

In re Application of :
GREEN, et al. :
Serial No.: 10/566,082 : DECISION ON PETITION
PCT No.: PCT/CA04/01433 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 30 July 2004 :
Priority Date: 01 August 2003 :
Attorney Docket No.: 7865276MISjb :
For: PROCESS FOR PREPARATION OF :
FLAX PROTEIN ISOLATE

This decision is issued in response to applicants' "Request for Reconsideration of Decision on Petition under 37 CFR 1.47(a)" filed 18 April 2007. In a decision dated 20 December 2006, applicants' petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor, Radka Milanova, was dismissed without prejudice.

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 18 April 2007 with the present communication was executed by the named inventor, the previous non-signing inventor, Radka Milanova. The declaration filed 18 April 2007 is acceptable under 37 CFR 1.497.

For the reasons above, the petition under 37 CFR 1.47(a) is **DISMISSED as MOOT**.

The application has an international filing date of 30 July 2004 under 35 U.S.C. 363 and a date of 18 April 2007 under 35 U.S.C. 371(c)(1),(c)(2) and (c)(4).

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

29 JAN 2008

DREISS, FUHLENDORF, STEIMLE & BECKER
POSTFACH 10 37 62
D-70032 STUTTGART
GERMANY

In re Application of:
BAER, Gerd
U.S. Application No.: 10/566,084
PCT No.: PCT/EP2004/008565
International Filing Date: 30 July 2004
Priority Date: 01 August 2003
Atty Docket No.: 0365 0030US
For: ELEVATING PLATFORM SYSTEM

DECISION ON PETITION

This decision is issued in response to the "Petition Under 37 CFR 1.181 To Withdraw A Notice Of Abandonment" filed 23 January 2008. No petition fee is required.

BACKGROUND

On 30 July 2004, applicant filed international application PCT/EP2004/008565. The international application claimed a priority date of 01 August 2003, and it designated the United States. On 10 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 entry into the U.S. national stage and submission of the basic national fee was thirty months from the priority date, i.e., 01 February 2006.

On 27 January 2006, applicant filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 23 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration 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 07 December 2007, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a timely response to the Notification Of Missing Requirements.

On 23 January 2008, applicant filed the Petition Under 37 CFR 1.181 To Withdraw A Notice Of Abandonment considered herein. The petition asserts that, on 13 July 2006, applicant filed via facsimile a timely response to the Notification Of Missing Requirements that included a fully executed declaration and the authorization to charge applicant the required surcharge.

DISCUSSION

The present petition states that a response to the Notification Of Missing Requirements, including an executed declaration and the authorization to charge Deposit Account No. 50-1030 the required surcharge, was filed by facsimile on 13 July 2006. However, the application file does not contain such responsive materials.

The present petition includes a copy of the seven-page facsimile purportedly filed on 13 July 2006. These materials include the following: (1) a two-page "Transmittal Letter Submitting Missing Requirements" that identifies the present application, itemizes the attached materials (including the executed declaration), authorizes a charge to Deposit Account No. 50-1030 for the required surcharge, and bears a "Certificate Of Transmission" dated 13 July 2006 and executed by Judith Lang; (2) a copy of the Notification Of Missing Requirements (two-pages); and (3) an executed declaration (three-pages). The petition also includes a copy of the confirmation report generated by applicant's facsimile machine with respect to the 13 July 2006 submission, which confirms a seven-page transmission on such date, as well as a declaration in support of the petition from Judith Lang, the person who executed the certificate of transmission contained on the 13 July 2006 submission.

37 CFR 1.8(b) states the following:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

With regard to item (1) above, the present petition was promptly filed.

With regard to item (2) above, the present petition includes a copy of the previously transmitted correspondence which, as noted above, bears a certificate of transmission.

With regard to item (3), as noted above, the present petition includes a copy of the sending unit's report confirming transmission to the USPTO facsimile number of a seven-page submission in the present application on 13 July 2006, as well as a declaration confirming the previous submission executed by Judith Lang, the person who signed the certificate of transmission contained in the materials filed 13 July 2006 (and a person who would therefore be

presumed to have personal knowledge of such transmission). The statements in the petition and Ms. Lang's declaration, in combination with the facsimile confirmation report, satisfy the requirements of item (3) above.

Based on the above, the present petition satisfies the requirements of 37 CFR 1.8(b). Accordingly, the materials accompanying the present petition (including the executed declaration) are appropriately treated, for purposes of timeliness, as having been filed on 13 July 2006 as a timely response to the Notification of Missing Requirements mailed 23 May 2006. It is noted that, for all other purposes, these materials will be treated as having been filed on 23 January 2008, the filing date of the present petition (see 37 CFR 1.8(a)).

The Notification of Abandonment mailed 07 December 2007, based as it was on applicant's purported failure to file a timely response to the Notification Of Missing Requirements mailed 23 May 2006, is appropriately vacated.

CONCLUSION

The petition to withdraw the holding of abandonment is **GRANTED**.

Pursuant to 37 CFR 1.8, for purposes of timeliness, the materials accompanying the present petition, including the executed declaration and surcharge payment authorization, are treated as having been submitted on 13 July 2006 as a timely response to the Notification Of Missing Requirements mailed 23 May 2006.

Deposit Account No. 50-1030 will be charged the $65 small entity surcharge for filing the declaration later than thirty months after the priority date.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 07 December 2007 is hereby **VACATED**.

This application is being returned to the National Stage Processing Branch of the International Division for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 23 January 2008.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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Gardner Groff Greenwald & Villanueva PC
2018 Powers Ferry Road
Suite 800
Atlanta, GA 30339

COPY MAILED

JAN 11 2010

In re Application of	:	
Don Griffin et al.	:	
Application No. 10/566,107	:	DECISION ON PETITION
Filed: January 26, 2006	:	
Attorney Docket No. 2G02.1-150 1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 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 October 15, 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 16, 2009. A Notice of Abandonment was mailed on April 29, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3731 for appropriate action by the Examiner in the normal course of business on the reply received October 29, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

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GREGORY J. LAVORGNA, ESQUIRE
DRINKER BIDDLE & REATH
ONE LOGAN SQUARE
18TH & CHERRY STREETS
PHILADELPHIA, PA 19103-7595

MAILED

APR 27 2010

OFFICE OF PETITIONS

In re Application of	:	
James Hamilton Erskine	:	DECISION ON PETITION
Application No. 10/566,110	:	TO WITHDRAW
Filed: August 16, 2006	:	FROM RECORD
Attorney Docket No. 8830-381(220706)	:	

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 12, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on April 12, 2010 the power of attorney to Gregory J. Lavorgna, Esquire Drinker Biddle & Reath was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM NC 27707

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Nicole Weber	: DECISION ON REQUEST FOR
Patent Number	: 7668630	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/566,127	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **917** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

Mail Date: 04/21/2010

Applicant	: Shevchenko Natalya Michailovna	: DECISION ON REQUEST FOR
Patent Number	: 7611716	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/566,133	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/01/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **389** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.
10/566,141	01/27/2006	Bjorn Ove Dalseide	53550.78	1896

7590 04/19/2010

Francis C. Hand
Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart
5 Becker Farm
Roseland, NJ 07068

EXAMINER	
SALONE, BAYAN	

ART UNIT	PAPER NUMBER
3726	

MAIL DATE	DELIVERY MODE
04/19/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Francis C. Hand
Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart
5 Becker Farm
Roseland NJ 07068

In re Application of:
DALSEIDE, BJORN OVE
Serial No. 10/566,141
Filed: Jan. 27, 2006
Docket: 53550.78
Title: DEVICE OF A DESCALER HEAD

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed on March 30, 2010 under 37 CFR § 1.181. Petitioner requests that the finality of the rejection mailed on September 30, 2009 be withdrawn because petitioner believes the Rule 116 Amendment of October 20, 2009 would overcome the Final Rejection.

The petition is dismissed as moot.

Background

In response to the applicant's arguments responding the non-final Office action filed on July 24, 2009, the examiner issued a Final Rejection on September 30, 2009. On October 20, 2009, the applicant filed a Rule 116 Amendment and traversed the examiner's rejection of the claims. A telephone interview was conducted on October 20, 2009 between the examiner and the applicant's attorney. According to the Interview Summary record mailed on October 22, 2009, there was no agreement reached. However, the contents of the Interview Summary shows the examiners concurred that an amendment further detailing the deformation of the disc-shaped plates and how the descaler portions are longitudinally offset in different planes would appear to define over the rejection of record. Subsequently, on December 7, 2009, the examiner sent an Advisory Action informing the applicant that the Rule 116 Amendment of October 20, 2009 will not be entered because it raised new issues that would require further consideration and /or search. On March 30, 2010, the current petition requesting withdrawal the finality of the Office action of September 30, 2010 was filed because petitioner opines that the Rule 116 Amendment of October 22, 2010 would overcome the Final Rejection of September 30, 2009. On March 30, 2010, the applicant filed a Request for Continued Examination.

Discussion

The present petition filed on March 30, 2010, requests withdrawal of the finality of the Office Action mailed on September 30, 2010 because the Rule 116 Amendment of October 22, 2010 would overcome the Final Rejection. In the petition, petitioner did not point out any impropriety

of the finality of the Final Rejection of September 30, 2009. A review of the Final Rejection of September 30, 2009 does not show any error. Therefore, the finality of the Office action is proper. Since, the entry of Rule 116 Amendment is not a matter of right. The Advisory Action mailed on December 7, 2009 also contains no error.

On March 30, 2010, the applicant also filed a Request for Continuing Examination under 37 CFR §1.114. Therefore, the finality of the Office Action mailed on September 30, 2009 is operatively withdrawn, and the applicant is now able to argue the merits of the examiner's rejections in subsequent amendment as filed on October 20, 2009 (37 CFR § 1.114(d))[1].

With regard to the requested credit of the cost of filing RCE and three months of extension of time, 35 USC § 42(d) permits a refund of "any fee paid by mistake or any amount paid in excess of that required." Thus, the Office may refund: (1) a fee paid when no fee is required (a fee paid by mistake); or (2) any fee paid in excess of the amount of fee that is required. See Ex Parte Grady, 59 USPQ 276, 277 (Comm'r Pats. 1943) (the statutory authorization for the refund of fees is applicable only to a mistake relating to fee payment). However, petitioner has not shown, nor does inspection of the record reveal, that any fees were paid either in excess or by mistake. Since all fees were paid in the proper amounts and purposes, the fees were not paid in excess. It should be noted that the USPTO has no authority to waive fees or provide refund (35 USC 41(a)(8)). Unless petitioner can point out any fees charged were by mistake or in excess, no refund of fees can be made in this application.

Decision

In view that the contested claims are now pending before the examiner, the petitioner's request for relief is moot. Therefore, the petition to withdraw the finality of the September 30, 2009 Office action is dismissed as moot.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS MOOT.

Robert Olszewski, Director
Technology Center 3700

[1]37 CFR §1.114(d) states: If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered.

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17 AUG 2007

CHRISTIE., PARKER, & HALE, LLP
PO Box 7068
Pasadena, CA 91109-7068

In re Application of	:	
BERGSMANN, Martin, et al.	:	
Application No.: 10/566,144	:	DECISION ON
PCT No.: PCT/DE2004/001668	:	PETITION UNDER
Int. Filing Date: 26 July 2004	:	37 CFR 1.181
Priority Date: 28 July 2003	:	
Attorney Docket No.: 57036/M521	:	
For: DEVICE FOR THE STORAGE OF SOLID AND/OR LIQUID AND/OR GASEOUS OBJECTS	:	

This decision is issued in response to the "Petition Requesting resetting Of Mailing Date Of Notification Of Missing Requirements To November 29, 2006 And Waiver Of Petition Fee And Extension Fees" filed 05 March 2007. No petition fee is required.

BACKGROUND

On 26 July 2004, applicants filed international application PCT/DE2004/001668. The international application claimed a priority date of 28 July 2003, and it designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 10 February 2005. The deadline for payment of the basic national fee in the United States was to thirty months from the priority date, i.e., 28 January 2006.

On 27 January 2006, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national feea dn an unsigned declaration.

On 05 June 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring submission of a translation of the international application into English and an executed oath or declaration in compliance with 37 CFR 1.497.

On 05 December 2006, applicants filed a response to the Notification of Missing Requirements which included, among other materials, an executed declaration in compliance with 37 CFR 1.497, an English translation of the international application, and the authorization to charge Deposit Account No. 03-1728 for any required fees.

On 05 March 2007, applicants filed the petition considered herein. The petition requests that the mailing date of the Notification of Missing Requirements mailed 05 June 2006 be reset to 29 November 2006, the date on which applicants assert the notification was first received. Based on this resetting, applicants request a waiver of any extension fees required with respect to the 05 December 2006 response to the Notification Of Missing Requirements.

DISCUSSION

A. Petition To Reset Mailing Date

Petitioner states that Notification of Missing Requirements was not received until 29 November 2006, which was after the response due date. For these situations, the United States Patent and Trademark Office (USPTO) set forth guidelines for restarting the period at 1160 OG 14, which have been incorporated into the MPEP. Section 710.06 of the MPEP states, a petition requesting restarting a previously set response period due to the late receipt of an office action will be granted when:

> (A) the petition is filed within 2 weeks of the date of receipt of the office action at the correspondence address;
> (B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g., at least 1 month of a 2- or 3-month reply period had elapsed); and
> (C) the petition includes: (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt of the Office action at the correspondence address.

Here, applicants did not file the present petition within two weeks of the 29 November 2006 receipt date, as required under MPEP section 710.06. Since the applicants did not file the required petition within the two-week period (i.e., by 13 December 2006), the mail date (and consequent response deadline) for the Notification of Missing Requirements cannot be reset.

B. Required Extension Fees

As discussed above, applicants filed a response to the Notification Of Missing Requirements on 05 December 2006. This response included the required declaration and English translation.

Based on the 05 June 2006 mail date of the Notification Of Missing Requirements, a four-month extension fee is required in order for the 05 December 2006 response to be considered timely, and thereby avoid abandonment of the application. Pursuant to the fee authorization contained in the 05 December 2006 submission, Deposit Account No. 03-1728 will be charged the fee for such extension.

In view of this extension payment, the 05 December 2006 submission is considered a timely response to the Notification Of Missing Requirements mailed 05 June 2006.

CONCLUSION

For the reasons discussed above, applicant's request to reset the mailing date, and consequent response period, with respect to the Notification of missing Requirements mailed 05 June 2006, is **DISMISSED** without prejudice.

Deposit Account No. 03-1728 will be charged the $1590 fee for the four-month extension of time required for the 05 December 2006 submission to be considered a timely response to the Notification of Missing Requirements.

If reconsideration of 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 1.181." No additional fee is required. Extensions of time under 37 CFR 1.136(a) are permitted.

Any further correspondence with respect to this petition should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3296
Fax: (571) 273-0459

United States Patent and Trademark Office

17 MAR 2006

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Philips S Johnson
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick NJ 08933-7003

In re Application of :
Goodwin et al. :
Application No.: 10/566,146 : DECISION
PCT No.: PCT/GB04/01110 :
Int. Filing Date: 12 March 2004 : ON
Priority Date: 13 March 2003 :
Attorney Docket No.: DEP5062 : PETITION
For: An Assembly For Use In Orthopaedic Surgery :

The petition to revive under 37 CFR 1.137(b) filed 27 January 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." This statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that counsel has filed the required reply in the form of the basic national fee, and has paid the petition fee Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

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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Alexandria, VA 22313-1450
www.uspto.gov

17 FEB 2006

Phillip S. Johnson
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

In re Application of :
FARRAR, et al. :
Application No.: 10/566,147 :
PCT No.: PCT/GB04/00507 : DECISION ON PETITION
Int. Filing Date: 09 February 2004 :
Priority Date: 08 February 2003 : UNDER 37 CFR 1.137(b)
Atty. Docket No.: DEP5050 :
For: A KNEE JOINT PROSTHESIS :

The petition to revive under 37 CFR 1.137(b) filed 27 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 required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors is required.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

12 FEB 2009

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Ivor R Elrifi
Mintz Levin Cohn Ferris Glovsky and Popeo
One Financial Center
Boston MA 02111

In re Application of :
WU et al. :
U.S. Application No.: 10/566,150 : DECISION ON PETITION
PCT No.: PCT/US04/24339 :
Int. Filing Date: 28 July 2004 :
Priority Date: 29 July 2003 :
Attorney Docket No.: 26505-526NATL :
For: PROCESS FOR THE SYNTHESIS OF BIARYL OXAZOLIDINONES :

This decision is issued in response to applicant's "Petition under 37 CFR 1.181 to Withdraw Holding of Abandonment" dated 04 December 2008. No petition fee is required.

BACKGROUND

On 28 July 2004, applicant filed international application PCT/US04/24339. 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 January 2006.

On 27 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 25 February 2008, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 07 November 2008, the United States Elected Office mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a response to the Notification of Missing Requirements mailed 25 February 2008 within the time period set therein.

On 04 December 2008, applicant filed "Petition under 37 CFR 1.181 to Withdraw

Holding of Abandonment." Applicants state in the present petition that the applicant did not receive the Notification of Missing Requirements mailed 25 February 2008.

DISCUSSION

The Manual of Patent Examining Procedure (MPEP) at 711.03(c) and the Official Gazette, at 1156 OG 53, provides the grounds that an Office action was not received:

> 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.

Applicant has provided a statement that the Form PCT/DO/EO/905 was never received, explained that a search of the file jacket and application contents revealed that the Form PCT/DO/EO/905 had not been received; and included a copy of the relevant docket record. Further, applicant has provided a statement describing the firm's docketing system, however, applicant has not provided a statement that the docketing system is sufficiently reliable. As such, it is not possible to grant applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment.

CONCLUSION

For the reasons detailed above, applicant's petition under 37 CFR 1.181 is DISMISSED.

If reconsideration of the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." No additional fee is required. Extensions of time under 37 CFR 1.136(a) are permitted.

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

19 MAY 2009

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Ivor R Elrifi
Mintz Levin Cohn Ferris Glovsky and Popeo
One Financial Center
Boston, MA 02111

In re Application of :
WU et al. :
U.S. Application No.: 10/566,150 :
PCT No.: PCT/US04/24339 :
Int. Filing Date: 28 July 2004 : DECISION ON PETITION
Priority Date: 29 July 2003 :
Attorney Docket No.: 26505-526NATL :
For: PROCESS FOR THE SYNTHESIS OF BIARYL OXAZOLIDINONES :

In a decision mailed by this Office on 12 February 2009, applicants' petition to withdraw the holding of abandonment herein was dismissed without prejudice for failure to satisfy the requirements of a grantable petition. Specifically, applicants had not provided a statement that the docketing system is sufficiently reliable.

On 20 March 2009, applicants filed the renewed petition considered herein. The renewed petition includes: a statement that the Form PCT/DO/EO/905 was never received; explained that a search of the file jacket and application contents revealed that the Form PCT/DO/EO/905 had not been received; and included a copy of the relevant docket record (and a mail log). Further, applicants have provided a statement describing the firm's docketing system and that the docketing system is sufficiently reliable.

Applicants have now satisfied all the requirements for a grantable petition to withdraw the holding of abandonment based on applicants' failure to receive the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 25 February 2008.

The renewed petition for withdrawal of the holding of abandonment is **GRANTED**.

The Notification Of Abandonment (Form PCT/DO/909) mailed 07 November 2008, based as it was on applicants' failure to respond to a Notification Of Missing Requirements that applicants did not receive, is appropriately **VACATED**.

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 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
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P.O. Box 1450
Alexandria, VA 22313-1450
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03 AUG 2007

MARSTELLER & ASSOCIATES
P O BOX 803302
DALLAS, TX 75380-3302

In re Application of	:	
BAR-YONA, Itzchak et al.	::	
U.S. Application No.: 10/566,190	:	DECISION ON
PCT No.: PCT/IL05/00485	:	
Int'l Filing Date: 09 May 2005	:	PETITION
Priority Date: 10 May 2004	:	
Attorney's Docket No.: LUZ030PU	:	UNDER 37 CFR 1.181
For: RETRO-REFLECTIVE AIMING MEANS	:	

Applicants filed "Request to Correct Filing Date," on 18 February 2007. The Request has been treated as a petition under 37 CFR 1.181.

As set forth in MPEP 1893.03(b), the filing date of a national phase of a PCT is the international filing date. The date that appears in the "filing or 371(c) date" field of the filing receipt is the date of completion of the 35 U.S.C. §371 (c) requirements. Applicants supplied a declaration of the inventors and completed the 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) requirements on 15 July 2006. The indication in the 12 February 2007 filing receipt that the requirements were completed on 15 July 2007 was erroneous. However, applicant is not entitled to a filing date of 27 January 2006, as at that point applicants had not furnished an oath or declaration of the inventors.

For the above reasons, the Petition Under 37 CFR 1.181 is **DISMISSED** without prejudice. 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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OSHA LIANG L.L.P.
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: Melwyn Abreo	: DECISION ON REQUEST FOR
Patent Number	: 7605161	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/566,193	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **552** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

25 JUN 2007

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

In re Application of	:	
Gellrich et al.	:	
Application No.: 10/566,196	:	
PCT No.: PCT/EP04/07186	:	
Int. Filing Date: 02 July 2004	:	DECISION
Priority Date: 01 August 2003	:	
Attorney Docket No.: LO29-030	:	
For: Optical Imaging Device Having At Least One System Diaphragm	:	

This is in response to the declaration of the inventors filed on 25 July 2006.

BACKGROUND

This international application was filed on 02 July 2004, claimed an earlier priority date of 01 August 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 03 March 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 01 February 2006. Applicant filed *inter alia* the basic national fee on 30 January 2006.

On 11 July 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).

DISCUSSION

Inspection of the declaration document filed on 25 July 2006 reveals that it names and inventor, Martin E. Humphries, who is not nominated in the published international application. Review of the application file reveals no indication that he was added during the international phase. As such, it appears that a submission under 37 CFR 1.497(d) may be appropriate.

Further inspection of the declaration reveals that it appears to have been compiled from individual sheets signed by the inventors (as opposed to presenting complete copies of each declaration as signed). Applicants' attention is drawn to MPEP 201.03, which explains in part that

> While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different

declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

Since the declaration does not name the same inventive entity as the published international application, and since it appears to have been compiled as described above, it would not be appropriate to accept it at this time.

DECISION

The declaration is **NOT ACCEPTED**, without prejudice.

Any request for reconsideration of this decision must be filed within **TWO (2) MONTHS** of the mailing date of this decision (extendable under 37 CFR 1.136(a)). Failure to timely reply will result in **ABANDONMENT**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
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28 MAR 2008

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

In re Application of
Gellrich et al.
Application No.: 10/566,196
PCT No.: PCT/EP04/07186
Int. Filing Date: 02 July 2004
Priority Date: 01 August 2003
Attorney Docket No.: LO29-030
For: Optical Imaging Device Having At Least One System Diaphragm

DECISION

This is in response to the submission under 37 CFR 1.497(d) filed on 12 December 2007.

DISCUSSION

In a Decision mailed on 25 June 2007, the declaration filed on 25 July 2006 was not accepted, without prejudice, because

> it names an inventor, Martin E. Humphries, who is not nominated in the published international application. Review of the application file reveals no indication that he was added during the international phase. As such, it appears that a submission under 37 CFR 1.497(d) may be appropriate.

And also because

> it appears to have been compiled from individual sheets signed by the inventors (as opposed to presenting complete copies of each declaration as signed).

In response, applicant has filed a submission under 37 CFR 1.497(d), including a new declaration. A declaration filed under 37 CFR 1.497 (d) must be by the actual inventor or inventors as required under 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47. The declaration must be accompanied by (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part, (2) the processing fee set forth in 37 CFR 1.17; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (*See* 37 CFR 3.73(b)). *See* Section 201.03 of the Manual of Patent Examining Procedure (M.P.E.P.).

Regarding requirement (1), applicants have provided a statement by Mr. Humphries that "the omission of the inventive entity in the international patent application, PCT/EP2004/007186, filed July 2, 2004, occurred without any deceptive intention on my part." The meaning of this statement is unclear, though it appears that Mr. Humphries may have intended to refer to "the omission of my name from the inventive entity named..." Clarification is required.

Regarding requirement (2), the required processing fee has been paid.

Regarding requirement (3), applicants have submitted acceptable evidence of the consent of assignee Carl Zeiss SMT AG to the addition of Martin E. Humphries as a joint inventor.

It is also noted that the declaration filed on 12 December 2007 includes un-initialed alterations to the data pertaining to inventors Huber and Szekely. In view of these deficiencies, it would not be appropriate to accept the declaration.

DECISION

The declaration is **NOT ACCEPTED** under 37 CFR 1.497(d), without prejudice.

Any request for reconsideration of this decision must be filed within **TWO (2) MONTHS** of the mailing date of this decision. Extensions of time under 37 CFR 1.136(a)) are available. Failure to timely reply will result in **ABANDONMENT**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
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18 AUG 2008

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

In re Application of :
Gellrich et al. :
Application No.: 10/566,196 :
PCT No.: PCT/EP04/07186 :
Int. Filing Date: 02 July 2004 : DECISION
Priority Date: 01 August 2003 :
Attorney Docket No.: LO29-030 :
For: Optical Imaging Device Having :
At Least One System Diaphragm :

This is in response to the renewed submission under 37 CFR 1.497(d) filed on 18 June 2008.

DISCUSSION

In a Decision mailed on 28 March 2008, the declaration filed on 12 December 2007 was not accepted under 37 CFR 1.497(d), without prejudice, because

> Regarding requirement (1), applicants have provided a statement by Mr. Humphries that "the omission of the inventive entity in the international patent application, PCT/EP2004/007186, filed July 2, 2004, occurred without any deceptive intention on my part." The meaning of this statement is unclear, though it appears that Mr. Humphries may have intended to refer to "the omission of my name from the inventive entity named..." Clarification is required.
>
> It is also noted that the declaration filed on 12 December 2007 includes un-initialed alterations to the data pertaining to inventors Huber and Szekely. In view of these deficiencies, it would not be appropriate to accept the declaration.

In response, applicants have filed the instant response, including an acceptable statement by Mr. Humphries, as well as declaration documents properly executed by inventors Huber and Szekely. Thereby, applicants have now satisfied all of the requirements for relief under 37 CFR 1.497(d).

DECISION

The declaration is **ACCEPTED** under 37 CFR 1.497(d).

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 **18 June 2008**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
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Steven J. Scott
Corning Incorporated
SP-TI-3-1
Corning, NY 14831

Mail Date: 04/27/2010

Applicant	: John Steele Abbott III	: DECISION ON REQUEST FOR
Patent Number	: 7608344	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/566,197	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **384** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

02 AUG 2006

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

In re Application of	:	
ALI ABDULLAH HASSON, Tareq et al	:	
Application No.: 10/566,230	:	DECISION
PCT No.: PCT/EP04/07800	:	
Int. Filing Date: 14 July 2004	:	ON PETITION UNDER
Priority Date: 30 July 2003	:	
Attorney Docket No.: 670101.401USPC	:	37 CFR 1.181
For: METHOD FOR PRODUCING SHAPE MEMORY EFFECTS IN HAIR	:	

This decision is in response to applicant's request for refund filed in the United States Patent and Trademark Office on 28 July 2006. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 14 July 2004, applicant filed international application PCT/EP04/07800, which claimed a priority date of 30 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 10 February 2005. The deadline for entry into the national stage in the United States was midnight on 30 January 2006.

On 27 January 2006, applicant filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee. The transmittal letter a transmittal letter for entry into the national phase in the United States. The transmittal letter is a modified version of the Form PTO-1390. On the third page, applicants changed the authorization to charge any required fees to an authorization to charge any deficiency in the basic national fee.

On 18 July 2006, the Office charged excess claim fees to applicants' deposit account.

On 19 July 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 28 July 2006, applicant filed a petition under 37 CFR 1.181 for a refund.

DISCUSSION

The charging of the excess claim fees was not authorized and will be refunded to deposit account no. 19-1090.

However, applicants indicate they wish to avoid this error in the future. Applicants have chosen to make a minor alteration to a highly familiar PTO form. While the error is on the part of the Office, applicants may wish to make the alteration far clearer to avoid future confusion.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 19 July 2006 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including mailing of a corrected Notification of Missing Requirements indicating that additional claim fees are also required.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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13 SEP 2006

Seed Intellectual Property Law Group PLLC
701 Fifth Avenue
Suite 6300
Seattle, WA 98104

In re Application of
ALI ABDULLA HASSON et al.
Application No: 10/566,231
PCT No.: PCT/EP04/07799
Int. Filing Date: 14 July 2004
Priority Date: 30 July 2003
Attorney Docket No.: 670101.403USPC
For: COSMETIC COMPOSITIONS WITH POLYOL/POLYESTER BLOCK POLYMERS

DECISION
ON
REQUEST FOR REFUND

This decision is issued in response to applicant's facsimile communications dated 27 July 2006 and 16 August 2006 which are being treated as a request for refund. The request is **GRANTED**.

The request for refund states that the transmittal letter, submitted on 27 January 2006, authorized the Director to charge Deposit Account no. 19-1090 "any deficiency in the basic national fee." A review of the application file and finance record reveals that Deposit Account no. 19-1090 was charged a $360 in excess claims fee (multiple dependent surcharge), which was not authorized by the applicant. Therefore, applicant is entitled to a refund of the excess claims fee (multiple dependent surcharge) paid in this application.

The United States Designated/Elected Office (DO/EO/US) will apply a credit in the amount of **$360.00** to Deposit Account No. **19-1090.**

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

RECEIVED
27 JUL 2006
Legal Staff
International Division

Seed IP

July 27, 2006

Karl R. Hermanns
Telephone: (206) 4834
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Facsimile Transmission

Seed Intellectual Property Law Group PLLC

address 701 Fifth Avenue
Suite 6300
Seattle, WA 98104
phone 206.622.4900
fax 206.682.6031
website SeedIP.com

To: PCT Legal Administration

Fax No.: (571) 273-0459

Phone No.:

Re: **U.S. Application No. 10/566,231**

Your Ref.:

Seed IP Ref.: 670101.403USPC

No. of Pages: 16 (including this page)

If you do not receive all pages, please call Lola Kemp at (206) 622-4900 or fax our office.

[X] **Urgent** [ ] For Review [ ] Please Confirm Receipt [X] **Please Reply ASAP**

Comments:

Documents attached:
Letter concerning improper deduction of excess claims fees
Request for Refund (transmittal, Request, attachments)

Transmission Information:

Date: Time: By:

Adjustment Date: 09/13/2006 SBASHEIR
07718/2006 AJOHNSO2 00000002 191090 10566231
01 FC:1616 -300.00 CR

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813548

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July 27, 2006

Karl R. Hermanns
Direct Line: (206) 694-4834
karlh@SeedIP.com

By Facsimile: (571) 273-0459

PCT Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: U.S. Patent Application No. 10/566,231 lodged January 27, 2006, Entitled COSMETIC COMPOSITIONS WITH POLYOL/POLYESTER BLOCK POLYMERS
Seed Docket No.: 670101.403USPC

To Whom It May Concern:

In several instances in the past year, the PCT Branch of the U.S. Patent & Trademark Office has removed excess claims fees from this firm's Deposit Account 19-1090 **without authorization.** After a lengthy discussion on July 26, 2006, with Mr. Paul Bell of the PCT branch, Mr. Bell suggested that we write a letter to PCT Legal Administration, rather than simply submitting a Request for Refund, in the hope of addressing this issue and preventing its recurrence.

When filing the above-identified application (our Docket No. 670101.403USPC) on January 27, 2006, Applicants enclosed a check for $1,030 (copy of transmittal and check #33526 enclosed). On the transmittal, Applicants checked box "c" on page 3, which reads as follows:

c. ☒ The Commissioner is hereby authorized to charge **any deficiency in the basic national fee** which may be required, or credit any overpayment to Deposit Account No. **19-1090**. A duplicate copy of this sheet is enclosed.

(Bold type in original.) This firm does not use Form PTO-1390, and the language of paragraph "c" in our transmittal is not identical to that of Form PTO-1390. Thus, this paragraph is **not** a general authorization, and it specifically does not authorize the PTO to deduct excess claims fees. The "basic national fee" referred to is the minimum fee of $300 required to be submitted at the time of filing, as indicated on page 2 of the transmittal. The basic national fee was included in check no. 33526.

However, on July 18, 2006, the PCT Branch improperly deducted $360 in excess claims fees (multiple dependent surcharge) (copy of Accounting Statement enclosed). Applicants respectfully request that the Patent and Trademark Office issue a refund of $360 for claims fees improperly deducted from Deposit Account No. 19-1090 on July 18, 2006.

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Applicants also enclose a Request for Refund. If the issue cannot be resolved by means of this letter, please forward the Request for Refund to the appropriate office for processing.

We request that you honor the language of our transmittal and refrain from deducting excess claims fees. I look forward to receipt of your reply.

Very truly yours,
Seed IP Law Group PLLC

Karl R. Hermanns

Enclosures:
Accounting Statement showing Deposit Account deduction
Copy of Check No. 33526
Copy of Transmittal

813551_1.DOC

07/14	12	A0005262	200164.201WP	7901	217	$100.00
07/14	238	60814664	110184.435P1	8021	110	$40.00
07/14	248	60791397	110184.436P1	8021	110	$40.00
07/14	292	76416396	860134.202	7004	211	$150.00
07/17	2	10406109	890050.426	1814	106	$130.00
07/17	3	10520882	900145.403USPC	9204	112	$100.00
07/17	4	09474858	110184.401	1811	124	$100.00
07/17	4	10520882	900145.403USPC	1681	122	$500.00
07/17	154	78929897	700043.20445	7001	203	$325.00
07/17	156	78929900	700043.20446	7001	203	$325.00
07/17	157	78929905	700043.20447	7001	203	$325.00
07/17	160	78929908	700043.20448	7001	205	$325.00
07/17	208	11406830	130109.628	8021	110	$40.00
07/17	209	11408787	130109.632	8021	110	$40.00
07/17	215	60681815	670095.404P1	8021	110	$40.00
07/17	217	11436115	670095.404	8021	110	$40.00
07/17	219	60676467	670095.407P1	8021	110	$40.00
07/17	222	60787805	670095.408P1	8021	110	$40.00
07/17	245	60754738	320043.434P1	8021	110	$40.00
07/17	250	60758148	320043.437P1	8021	110	$40.00
07/17	543	11408602	851763.479	8021	110	$40.00
07/17	545	11399297	854263.406	8021	110	$40.00
07/17	2243	78534544	666005.20400	7004	211	$150.00
07/17	2299	78534546	666005.20401	7004	211	$150.00
07/17	2326	78534549	666005.20402	7004	211	$150.00
07/18	2	10566231	670101.403USPC	1616	Lola	$360.00
07/18	7	10566230	670101.401USPC	1616	Nag	$360.00
07/18	8	10566230	670101.401USPC	1615	refund	$850.00
07/18	8	78796285	910009.263	8507	108	$60.00
07/18	9	78796288	910009.264	8507	108	$60.00
07/18	31	11376761	210121.611	8021	110	$40.00
07/18	36	60773380	670098.404P1	8021	110	$40.00
07/18	242	11380829	200617.448	8021	110	$40.00
07/18	247	78536241	700043.20361	7004	211	$150.00
07/18	351	78441029	666005.20362	7004	211	$150.00
07/18	448	10897974	110184.412	8021	110	$40.00
07/18	578	10131267	630055.420	8021	110	$40.00
07/18	1048	11380829	200017.448	4011	100	$75.00

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
PTO ACCOUNT
(206) 622-4900
701 5TH AVE. STE. 6300
SEATTLE, WA 98104-7043

EXPRESS MAIL NO. EV529789416US
670101.403USPC

33526

DATE January 27, 2006

19-2/1250 WA
91928

PAY TO THE ORDER OF DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE $ **1,030.00**

********** One Thousand Thirty and no/100 ********** DOLLARS

Bank of America

Middle Market Banking
King County, Washington

NON-NEGOTIABLE

"033526" :125000024: 69048 817"

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SEATTLE, WA 98104-7043

DETACH AND RETAIN THIS STATEMENT
THE ATTACHED CHECK IS IN PAYMENT OF ITEMS DESCRIBED BELOW
IF NOT CORRECT, PLEASE NOTIFY US PROMPTLY. NO RECEIPT DESIRED

DATE	DESCRIPTION		AMOUNT
1/27/06	PCT/US National Phase of PCT/EP2004/007799		
	670101.403USPC		
	ALI ABDULLA HASSON, Tareq, et al.		
	Basic National Fee	$300	
	Examination Fee	200	
	Search Fee	400	
	Oath/Declaration Surcharge	130	$1,030.00
	KRH/lhk		

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Express Mail No. EV529789416US

TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A SUBMISSION UNDER 35 U.S.C. 371		ATTORNEY'S DOCKET NO. 670101.403USPC U.S. APPLICATION NO. (If known, see 37 CFR 1.5)
INTERNATIONAL APPLICATION NO. PCT/EP2004/007799	INTERNATIONAL FILING DATE 14.07.2004 (July 14, 2004)	PRIORITY DATE CLAIMED 30.07.2003 (July 30, 2003)

TITLE OF INVENTION

COSMETIC COMPOSITIONS WITH POLYOL/POLYESTER BLOCK POLYMERS

APPLICANT(S) FOR DO/EO/US

ALI ABDULLA HASSON, Tareq; LENDLEIN, Andreas; KRATZ, Karl; MOERSHEIM, Simone; GHAZLAN, Yasmin; BIRKEL, Susanne; KRAUSE, Thomas; KALBFLEISCH, Axel; WALTER, Andrea; GRANER, Susanne

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12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
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U.S. APPLICATION NO. (If known, see 37 CFR 1.5)	INTERNATIONAL APPLICATION NO. PCT/EP2004/007799	ATTORNEY'S DOCKET NUMBER 670101.403USPC

The following fees are submitted		
21. ☒ Basic national fee (37 CFR 1.492(a)) $300.00	$300.00	
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TOTAL OF 21, 22 AND 23 =	$900.00	
☐ Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing in compliance with 37 CFR 1.821(c) or (e) or computer program listing in an electronic medium) (37 CFR 1.492(j)). The fee is $250 for each additional 50 sheets of paper or fraction thereof.		

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof (round up to a whole number)	RATE	
42 - 100 = 0	0/50 =	0	X $250.00	$ .00

Surcharge of $130.00 for furnishing any of the search fee, examination fee, or the oath or declaration after the date of commencement of the national stage (37 CFR 1.492(h)).				$130.00
Claims	Number Filed	Number Extra	Rate	
Total Claims	- 20 =		x $ 50.00	$ .00
Independent Claims	- 3 =		x $ 200.00	$ .00
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ $360.00	$ .00
TOTAL OF ABOVE CALCULATIONS =				$1,030.00
☐ Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by ½.				$ .00
SUBTOTAL =				$1,030.00
Processing fee of $130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)). +				$ .00
TOTAL NATIONAL FEE =				$1,030.00
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). $40.00 per property +				$ .00
TOTAL FEES ENCLOSED =				$1,030.00
				Amount to be refunded:
				Amount to be Charged:

U.S. APPLICATION NO. (If known, see 37 CFR 1.5)	INTERNATIONAL APPLICATION NO.	ATTORNEY'S DOCKET NUMBER
	PCT/EP2004/007799	670101.403USPC

a. [X] A check in the amount of $1,030 to cover the above fees is enclosed.

b. [ ] Please charge my Deposit Account No. 19-1090 in the amount of $____ to cover the above fees. A duplicate copy of this sheet is enclosed.

c. [X] The Commissioner is hereby authorized to charge any deficiency in the basic national fee which may be required, or credit any overpayment to Deposit Account No. 19-1090. A duplicate copy of this sheet is enclosed.

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NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.

SEND ALL CORRESPONDENCE TO:

Karl R. Hermanns
Seed Intellectual Property Law Group PLLC
701 5th Avenue, Suite 6300
Seattle, WA 98104-7092
United States of America
(206) 622-4900

SIGNATURE

Karl R. Hermanns
NAME

33,507
REGISTRATION NUMBER

738823_1.DOC

TRANSMITTAL FORM

(To be used for all correspondence after initial filing)

Application Number	10/566,231
Filing Date	July 14, 2004 [International Filing Date]
First Named Inventor	Tareq Ali Abdulla Hasson
Art Unit	
Examiner Name	
Attorney Docket No.	670101.403USPC

ENCLOSURES (*check all that apply*)

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Response
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement and Transmittal
- ☐ Cited References
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Response to Missing Parts/Incomplete Application
- ☐ Drawing(s)
- ☐ Request for Corrected Filing Receipt
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation, Change of Correspondence Address
- ☐ Declaration
- ☐ Statement under 37 CFR 3.73(b)
- ☐ Terminal Disclaimer
- ☒ Request for Refund
- ☐ CD, Number of CD(s) ____
  - ☐ Landscape Table on CD
- ☐ After Allowance Communication to TC
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC *(Appeal Notice, Brief, Reply Brief)*
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Return Receipt Postcard
- ☐ Other Enclosure(s) (*please identify below*):

Deposit Account Statement
Copy of Check No. 33526
Copy of 371 Transmittal

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Seed Intellectual Property Law Group PLLC	Customer Number	00500
Signature			
Printed Name	Karl R. Hermanns		
Date	July 27, 2006	Reg. No.	33,507

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being **facsimile transmitted** to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature		
Typed or printed name	Lola H. Kemp	Date: July 27, 2006

SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

813550_1.DOC

PATENT

I hereby certify that this paper is being facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below:

July 27, 2006 Lora Kemp
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Tareq Ali Abdulla Hasson et al.
Application No.	:	10/566,231
Filed	:	July 14, 2004 [International Date]
For	:	COSMETIC COMPOSITIONS WITH POLYOL/POLYESTER BLOCK POLYMERS
Docket No.	:	670101.403USPC
Date	:	July 27, 2006

PCT Legal Administration
Facsimile No. (571) 273-0459
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR REFUND

Director:

Applicants request that the PCT Branch of the Patent and Trademark Office issue a refund of $360 for claims fees (multiple dependent surcharge) improperly deducted from Deposit Account No. 19-1090 on July 18, 2006 (copy of Accounting Statement enclosed).

When filing this application (our Docket No. 670101.403USPC) on January 27, 2006, Applicants enclosed a check for $1,030 (copy of transmittal and check #33526 enclosed). On the transmittal, Applicants checked box "c" on page 3, which reads as follows:

c. ☒ The Commissioner is hereby authorized to charge **any deficiency in the basic national fee** which may be required, or credit any overpayment to Deposit Account No. **19-1090**. A duplicate copy of this sheet is enclosed.

(Bold type in original.) This firm does not use Form PTO-1390, and the language of paragraph "c" of our transmittal is not identical to that of Form PTO-1390. Thus, this paragraph is **not** a general authorization, and it specifically does not authorize the PTO to deduct excess claims fees. The "basic national fee" referred to is the minimum fee of $300 required to be submitted at the time of filing, as indicated on page 2 of the transmittal. The basic national fee was included in check no. 33526.

Application No. 10/566,230

In light of the above, Applicants respectfully request that $360 be returned to Deposit Account 19-1090.

Respectfully submitted,
Seed Intellectual Property Law Group PLLC

Karl R. Hermanns
Registration No. 33,507

Enclosures:
Copy of Transmittal filed January 27, 2006
Copy of Check #33526
Copy of Seed Accounting showing the Debits

cc: Accounting

701 Fifth Avenue, Suite 6300
Seattle, Washington 98104-7092
Phone: (206) 622-4900
Fax: (206) 682-6031

670101.403USPC / 813544_1.DOC

07/14	12	A0005262	200164.201WP	7901	217	$100.00
07/14	238	60814664	110184.435P1	8021	110	$40.00
07/14	248	60791397	110184.436P1	8021	110	$40.00
07/14	292	76416396	860134.202	7004	211	$150.00
07/17	2	10406109	890050.426	1814	106	$130.00
07/17	3	10520882	900145.403USPC	9204	112	$100.00
07/17	4	09474858	110184.401	1811	124	$100.00
07/17	4	10520882	900145.403USPC	1681	122	$500.00
07/17	154	78929897	700043.20445	7001	203	$325.00
07/17	156	78929900	700043.20446	7001	203	$325.00
07/17	157	78929905	700043.20447	7001	203	$325.00
07/17	160	78929908	700043.20448	7001	203	$325.00
07/17	208	11406830	130109.628	8021	110	$40.00
07/17	209	11408787	130109.632	8021	110	$40.00
07/17	215	60681815	670095.404P1	8021	110	$40.00
07/17	217	11436115	670095.404	8021	110	$40.00
07/17	219	60676467	670095.407P1	8021	110	$40.00
07/17	222	60787805	670095.408P1	8021	110	$40.00
07/17	245	60754738	320043.434P1	8021	110	$40.00
07/17	250	60758148	320043.437P1	8021	110	$40.00
07/17	543	11408602	851763.479	8021	110	$40.00
07/17	545	11399297	854263.406	8021	110	$40.00
07/17	2243	78534544	866005.20400	7004	211	$150.00
07/17	2299	78534546	866005.20401	7004	211	$150.00
07/17	2326	78534549	866005.20402	7004	211	$150.00
07/18	2	10566231	670101.403USPC	1616	Lola	$360.00
07/18	7	10566230	670101.401USPC	1616	neg.	$360.00
07/18	8	10566230	670101.401USPC	1615	refund	$850.00
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United States of America
(206) 622-4900

SIGNATURE

Karl R. Hermanns
NAME

33,507
REGISTRATION NUMBER

738823_1.DOC

RECEIVED
16 AUG 2006
Legal Staff
International Division

Seed IP

August 16, 2006

Karl R. Hermanns
Telephone: (206) 4834
karlh@SeedIP.com

Facsimile Transmission

Seed Intellectual Property Law Group PLLC

address 701 Fifth Avenue
Suite 6300
Seattle, WA 98104
ophone 206.622.4900
crimile 206.682.6031
website SeedIP.com

To: PCT Legal Administration / Attention: **Somia Basher**

Fax No.: (571) 273-0459

Phone No.:

Re: **U.S. Application No. 10/566,231**

Your Ref.:

Seed IP Ref.: 670101.403USPC

No. of Pages: 18 (including this page)

If you do not receive all pages, please call Lola Kemp at (206) 622-4900 or fax our office.

[X] **Urgent** [ ] For Review [ ] Please Confirm Receipt [X] **Please Reply ASAP**

Comments:

Documents attached:
Letter concerning improper deduction of excess claims fees
Request for Refund (transmittal, Request, attachments)

I am resending the facsimile I sent on July 27, 2006, as I have received no response, and there is no indication in private PAIR that this letter and Request for Refund were received. **Please confirm receipt of this facsimile. Thank you.**

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813548

Seed IP

July 27, 2006

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****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	4487
CONNECTION TEL	#78315712730459
CONNECTION ID	
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USAGE T	02'00
PGS. SENT	16
RESULT	OK

Seed IP

July 27, 2006

Karl R. Hermanns
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karlh@SeedIP.com

Facsimile Transmission

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[X] **Urgent** [ ] For Review [ ] Please Confirm Receipt [X] Please Reply ASAP

Comments:

Documents attached:

Letter concerning improper deduction of excess claims fees
Request for Refund (transmittal, Request, attachments)

Seed IP

July 27, 2006

Karl R. Hermanns
Direct Line: (206) 694-4834
karlh@SeedIP.com

By Facsimile: (571) 273-0459

PCT Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: U.S. Patent Application No. 10/566,231 lodged January 27, 2006, Entitled COSMETIC COMPOSITIONS WITH POLYOL/POLYESTER BLOCK POLYMERS
Seed Docket No.: 670101.403USPC

To Whom It May Concern:

In several instances in the past year, the PCT Branch of the U.S. Patent & Trademark Office has removed excess claims fees from this firm's Deposit Account 19-1090 **without authorization**. After a lengthy discussion on July 26, 2006, with Mr. Paul Bell of the PCT branch, Mr. Bell suggested that we write a letter to PCT Legal Administration, rather than simply submitting a Request for Refund, in the hope of addressing this issue and preventing its recurrence.

When filing the above-identified application (our Docket No. 670101.403USPC) on January 27, 2006, Applicants enclosed a check for $1,030 (copy of transmittal and check #33526 enclosed). On the transmittal, Applicants checked box "c" on page 3, which reads as follows:

c. ☒ The Commissioner is hereby authorized to charge **any deficiency in the basic national fee** which may be required, or credit any overpayment to Deposit Account No. **19-1090**. A duplicate copy of this sheet is enclosed.

(Bold type in original.) This firm does not use Form PTO-1390, and the language of paragraph "c" in our transmittal is not identical to that of Form PTO-1390. Thus, this paragraph is **not** a general authorization, and it specifically does not authorize the PTO to deduct excess claims fees. The "basic national fee" referred to is the minimum fee of $300 required to be submitted at the time of filing, as indicated on page 2 of the transmittal. The basic national fee was included in check no. 33526.

However, on July 18, 2006, the PCT Branch improperly deducted $360 in excess claims fees (multiple dependent surcharge) (copy of Accounting Statement enclosed). Applicants respectfully request that the Patent and Trademark Office issue a refund of $360 for claims fees improperly deducted from Deposit Account No. 19-1090 on July 18, 2006.

Seed Intellectual Property Law Group PLLC
701 Fifth Avenue
Suite 6300
Seattle, WA 98104
206.622.4900
206.682.6031
SeedIP.com

Applicants also enclose a Request for Refund. If the issue cannot be resolved by means of this letter, please forward the Request for Refund to the appropriate office for processing.

We request that you honor the language of our transmittal and refrain from deducting excess claims fees. I look forward to receipt of your reply.

Very truly yours,
Seed IP Law Group PLLC

Karl R. Hermanns

Enclosures:
Accounting Statement showing Deposit Account deduction
Copy of Check No. 33526
Copy of Transmittal

813551_1.DOC

07/14	12	A0005262	200164.201WP	7901	217	$100.00
07/14	238	60814664	110184.435P1	8021	110	$40.00
07/14	248	60791397	110184.436P1	8021	110	$40.00
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07/17	2326	78534549	866005.20402	7004	211	$150.00
07/18	2	10566231	670101.403USPC	1616	Lola	$360.00
07/18	7	10566230	670101.401USPC	1616	neg	$360.00
07/18	8	10566230	670101.401USPC	1615	refund	$850.00
07/18	8	78796285	910009.263	8507	108	$60.00
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07/18	242	11380829	200017.448	8021	110	$40.00
07/18	247	78536241	700043.20361	7004	211	$150.00
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07/18	448	10897974	110184.412	8021	110	$40.00
07/18	578	10131267	830055.420	8021	110	$40.00
07/18	1048	11380829	200017.448	4011	100	$75.00

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
PTO ACCOUNT
(206) 622-4900
701 5TH AVE. STE. 6300
SEATTLE, WA 98104-7043

EXPRESS MAIL NO. EV529789416US
670101.403USPC

33526

DATE January 27, 2006

19-2/1250 WA
91926

PAY TO THE ORDER OF DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE $ **1,030.00**

********** One Thousand Thirty and no/100 ********** DOLLARS

Bank of America
Middle Market Banking
King County, Washington

NON-NEGOTIABLE

"033526" 1:1250000241: 69048 817"

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
PTO ACCOUNT
SEATTLE, WA 98104-7043

DETACH AND RETAIN THIS STATEMENT
THE ATTACHED CHECK IS IN PAYMENT OF ITEMS DESCRIBED BELOW
IF NOT CORRECT, PLEASE NOTIFY US PROMPTLY. NO RECEIPT DESIRED

DATE	DESCRIPTION		AMOUNT
1/27/06	PCT/US National Phase of PCT/EP2004/007799		
	670101.403USPC		
	ALI ABDULLA HASSON, Tareq, et al.		
	Basic National Fee	$300	
	Examination Fee	200	
	Search Fee	400	
	Oath/Declaration Surcharge	130	$1,030.00
	KRB/lhk		

A2

NON-NEGOTIABLE

Express Mail No. EV529789416US

TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A SUBMISSION UNDER 35 U.S.C. 371		ATTORNEY'S DOCKET NO. 670101.403USPC U.S. APPLICATION NO. (If known, see 37 CFR 1.5)
INTERNATIONAL APPLICATION NO. PCT/EP2004/007799	INTERNATIONAL FILING DATE 14.07.2004 (July 14, 2004)	PRIORITY DATE CLAIMED 30.07.2003 (July 30, 2003)

TITLE OF INVENTION

COSMETIC COMPOSITIONS WITH POLYOL/POLYESTER BLOCK POLYMERS

APPLICANT(S) FOR DO/EO/US

ALI ABDULLA HASSON, Tareq; LENDLEIN, Andreas; KRATZ, Karl; MOERSHEIM, Simone; GHAZLAN, Yasmin; BIRKEL, Susanne; KRAUSE, Thomas; KALBFLEISCH, Axel; WALTER, Andrea; GRANER, Susanne

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☒ This is a **FIRST** submission of items concerning a submission under 35 U.S.C. 371.
2. ☐ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a submission under 35 U.S.C. 371.
3. ☐ This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.
4. ☒ The US has been elected (Article 31).
5. ☒ A copy of the International Application as filed (35 U.S.C. 371(c)(2)).
   a. ☐ is attached hereto (required only if not communicated by the International Bureau).
   b. ☒ has been communicated by the International Bureau.
   c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☒ An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).
   a. ☒ is attached hereto.
   b. ☐ has been previously submitted under 35 U.S.C. 154(d)(4).
7. ☒ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))
   a. ☐ are attached hereto (required only if not communicated by the International Bureau).
   b. ☐ have been communicated by the International Bureau.
   c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
   d. ☒ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☐ An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).
10. ☐ An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

Items 11 to 20 below concern document(s) or information included:

11. ☐ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☐ A preliminary amendment.
14. ☒ An Application Data Sheet under 37 CFR 1.76
15. ☐ A substitute specification.
16. ☐ A power of attorney and/or change of address letter.
17. ☐ A computer-readable form of the sequence listing in accordance with PCT Rule 13*ter*.2 and 37 CFR 1.821 – 1.825.
18. ☐ A second copy of the published International Application under 35 U.S.C. 154(d)(4).
19. ☐ A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).
20. ☐ Other items or information:

U.S. APPLICATION NO. (If known, see 37 CFR 1.5)	INTERNATIONAL APPLICATION NO. PCT/EP2004/007799	ATTORNEY'S DOCKET NUMBER 670101.403USPC

The following fees are submitted		
21. ☒ Basic national fee (37 CFR 1.492(a)) $300.00	$300.00	
22. ☒ Examination fee (37 CFR 1.492(c)) If the written opinion prepared by ISA/US or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4) ..... $ 0.00 All other situations $200.00	$200.00	
23. ☒ Search fee (37 CFR 1.492(b)) If the written opinion of the ISA/US or the international preliminary examination report prepared by the IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4) ..... $ 0.00 Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority ..... $100.00 International Search Report prepared by an ISA other than the US and provided to the Office or previously communicated to the US by the IB ..... $400.00 All other situations $500.00	$400.00	
TOTAL OF 21, 22 AND 23 =	$900.00	
☐ Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing in compliance with 37 CFR 1.821(c) or (e) or computer program listing in an electronic medium) (37 CFR 1.492(j)). The fee is $250 for each additional 50 sheets of paper or fraction thereof.		

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof (round up to a whole number)	RATE		
42 - 100 = 0	0/50 =	0	X $250.00	$ .00	
Surcharge of $130.00 for furnishing any of the search fee, examination fee, or the oath or declaration after the date of commencement of the national stage (37 CFR 1.492(h)).				$130.00	

Claims	Number Filed	Number Extra	Rate		
Total Claims	- 20 =		x $ 50.00	$ .00	
Independent Claims	- 3 =		x $ 200.00	$ .00	
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ $360.00	$ .00	
TOTAL OF ABOVE CALCULATIONS =				$1,030.00	
☐ Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by ½.				$ .00	
SUBTOTAL =				$1,030.00	
Processing fee of $130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)). +				$ .00	
TOTAL NATIONAL FEE =				$1,030.00	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). $40.00 per property +				$ .00	
TOTAL FEES ENCLOSED =				$1,030.00	
				Amount to be refunded:	
				Amount to be Charged:	

U.S. APPLICATION NO. (If known, see 37 CFR 1.5)	INTERNATIONAL APPLICATION NO.	ATTORNEY'S DOCKET NUMBER
	PCT/EP2004/007799	670101.403USPC

a. [X] A check in the amount of $1,030 to cover the above fees is enclosed.

b. [ ] Please charge my Deposit Account No. **19-1090** in the amount of $____ to cover the above fees. A duplicate copy of this sheet is enclosed.

c. [X] The Commissioner is hereby authorized to charge **any deficiency in the basic national fee** which may be required, or credit any overpayment to Deposit Account No. **19-1090**. A duplicate copy of this sheet is enclosed.

d. [ ] Fees are to be charged to a credit card. WARNING: Information on this form may become public. **Credit card information should not be included on this form.** Provide credit card information and authorization on PTO-2038.

NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.

SEND ALL CORRESPONDENCE TO:

Karl R. Hermanns
Seed Intellectual Property Law Group PLLC
701 5th Avenue, Suite 6300
Seattle, WA 98104-7092
United States of America
(206) 622-4900

SIGNATURE

Karl R. Hermanns
NAME

33,507
REGISTRATION NUMBER

738823_1.DOC

TRANSMITTAL FORM

(To be used for all correspondence after initial filing)

Application Number	10/566,231
Filing Date	July 14, 2004 [International Filing Date]
First Named Inventor	Tareq Ali Abdulla Hasson
Art Unit	
Examiner Name	
Attorney Docket No.	670101.403USPC

ENCLOSURES (*check all that apply*)

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Response
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement and Transmittal
- ☐ Cited References
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Response to Missing Parts/Incomplete Application
- ☐ Drawing(s)
- ☐ Request for Corrected Filing Receipt
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation, Change of Correspondence Address
- ☐ Declaration
- ☐ Statement under 37 CFR 3.73(b)
- ☐ Terminal Disclaimer
- ☒ Request for Refund
- ☐ CD, Number of CD(s) ____
  - ☐ Landscape Table on CD
- ☐ After Allowance Communication to TC
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC *(Appeal Notice, Brief, Reply Brief)*
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Return Receipt Postcard
- ☐ Other Enclosure(s) (*please identify below*):

Deposit Account Statement
Copy of Check No. 33526
Copy of 371 Transmittal

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Seed Intellectual Property Law Group PLLC	Customer Number	00500
Signature			
Printed Name	Karl R. Hermanns		
Date	July 27, 2006	Reg. No.	33,507

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being **facsimile transmitted** to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature		
Typed or printed name	Lola H. Kemp	Date: July 27, 2006

SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

PATENT

I hereby certify that this paper is being facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below:

July 27, 2006 Joca Kemp
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Tareq Ali Abdulla Hasson et al.
Application No.	:	10/566,231
Filed	:	July 14, 2004 [International Date]
For	:	COSMETIC COMPOSITIONS WITH POLYOL/POLYESTER BLOCK POLYMERS
Docket No.	:	670101.403USPC
Date	:	July 27, 2006

PCT Legal Administration
Facsimile No. (571) 273-0459
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR REFUND

Director:

Applicants request that the PCT Branch of the Patent and Trademark Office issue a refund of $360 for claims fees (multiple dependent surcharge) improperly deducted from Deposit Account No. 19-1090 on July 18, 2006 (copy of Accounting Statement enclosed).

When filing this application (our Docket No. 670101.403USPC) on January 27, 2006, Applicants enclosed a check for $1,030 (copy of transmittal and check #33526 enclosed). On the transmittal, Applicants checked box "c" on page 3, which reads as follows:

c. ☒ The Commissioner is hereby authorized to charge **any deficiency in the basic national fee** which may be required, or credit any overpayment to Deposit Account No. **19-1090**. A duplicate copy of this sheet is enclosed.

(Bold type in original.) This firm does not use Form PTO-1390, and the language of paragraph "c" of our transmittal is not identical to that of Form PTO-1390. Thus, this paragraph is **not** a general authorization, and it specifically does not authorize the PTO to deduct excess claims fees. The "basic national fee" referred to is the minimum fee of $300 required to be submitted at the time of filing, as indicated on page 2 of the transmittal. The basic national fee was included in check no. 33526.

Application No. 10/566,230

In light of the above, Applicants respectfully request that $360 be returned to Deposit Account 19-1090.

Respectfully submitted,
Seed Intellectual Property Law Group PLLC

Karl R. Hermanns
Registration No. 33,507

Enclosures:
Copy of Transmittal filed January 27, 2006
Copy of Check #33526
Copy of Seed Accounting showing the Debits

cc: Accounting

701 Fifth Avenue, Suite 6300
Seattle, Washington 98104-7092
Phone: (206) 622-4900
Fax: (206) 682-6031

670101.403USPC / 813544_1.DOC

Deposit Account Statement

07/14	12	A0005262	200164.201WP		7901	217	$100.00
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07/18	36	60773380	670098.404P1		8021	110	$40.00
07/18	242	11380829	200017.448		8021	110	$40.00
07/18	247	78536241	700043.20361		7004	211	$150.00
07/18	351	78441029	866005.20362		7004	211	$150.00
07/18	448	10897974	110184.412		8021	110	$40.00
07/18	578	10131267	830055.420		8021	110	$40.00
07/18	1048	11380829	200017.448		4011	160	$75.00

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
PTO ACCOUNT
(206) 622-4900
701 5TH AVE. STE. 6300
SEATTLE, WA 98104-7043

EXPRESS MAIL NO. EV529789416US
670101.403USPC

33526

DATE January 27, 2006

19-2/1250 WA
91926

PAY TO THE ORDER OF DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE $ **1,030.00**

********** One Thousand Thirty and no/100 ********** DOLLARS

Bank of America

Middle Market Banking
King County, Washington

NON-NEGOTIABLE

⑈033526⑈ ⑆125000024⑆ 69048 817⑈

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
PTO ACCOUNT
SEATTLE, WA 98104-7043

DETACH AND RETAIN THIS STATEMENT
THE ATTACHED CHECK IS IN PAYMENT OF ITEMS DESCRIBED BELOW
IF NOT CORRECT, PLEASE NOTIFY US PROMPTLY. NO RECEIPT DESIRED

DATE	DESCRIPTION		AMOUNT
1/27/06	PCT/US National Phase of PCT/EP2004/007799		
	670101.403USPC		
	ALI ABDULLA HASSON, Tareq, et al.		
	Basic National Fee	$300	
	Examination Fee	200	
	Search Fee	400	
	Oath/Declaration Surcharge	130	$1,030.00
	KRH/lhk		

NON-NEGOTIABLE

Express Mail No. EV529789416US

TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A SUBMISSION UNDER 35 U.S.C. 371		ATTORNEY'S DOCKET NO. 670101.403USPC U.S. APPLICATION NO. (If known, see 37 CFR 1.5)
INTERNATIONAL APPLICATION NO. PCT/EP2004/007799	INTERNATIONAL FILING DATE 14.07.2004 (July 14, 2004)	PRIORITY DATE CLAIMED 30.07.2003 (July 30, 2003)

TITLE OF INVENTION

COSMETIC COMPOSITIONS WITH POLYOL/POLYESTER BLOCK POLYMERS

APPLICANT(S) FOR DO/EO/US

ALI ABDULLA HASSON, Tareq; LENDLEIN, Andreas; KRATZ, Karl; MOERSHEIM, Simone; GHAZLAN, Yasmin; BIRKEL, Susanne; KRAUSE, Thomas; KALBFLEISCH, Axel; WALTER, Andrea; GRANER, Susanne

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. [X] This is a **FIRST** submission of items concerning a submission under 35 U.S.C. 371.
2. [ ] This is a **SECOND** or **SUBSEQUENT** submission of items concerning a submission under 35 U.S.C. 371.
3. [ ] This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.
4. [X] The US has been elected (Article 31).
5. [X] A copy of the International Application as filed (35 U.S.C. 371(c)(2)).
   a. [ ] is attached hereto (required only if not communicated by the International Bureau).
   b. [X] has been communicated by the International Bureau.
   c. [ ] is not required, as the application was filed in the United States Receiving Office (RO/US).
6. [X] An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).
   a. [X] is attached hereto.
   b. [ ] has been previously submitted under 35 U.S.C. 154(d)(4).
7. [X] Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))
   a. [ ] are attached hereto (required only if not communicated by the International Bureau).
   b. [ ] have been communicated by the International Bureau.
   c. [ ] have not been made; however, the time limit for making such amendments has NOT expired.
   d. [X] have not been made and will not be made.
8. [ ] An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. [ ] An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).
10. [ ] An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

Items 11 to 20 below concern document(s) or information included:

11. [ ] An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. [ ] An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. [ ] A preliminary amendment.
14. [X] An Application Data Sheet under 37 CFR 1.76
15. [ ] A substitute specification.
16. [ ] A power of attorney and/or change of address letter.
17. [ ] A computer-readable form of the sequence listing in accordance with PCT Rule 13*ter*.2 and 37 CFR 1.821 – 1.825.
18. [ ] A second copy of the published International Application under 35 U.S.C. 154(d)(4).
19. [ ] A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).
20. [ ] Other items or information:

U.S. APPLICATION NO. (If known, see 37 CFR 1.5)	INTERNATIONAL APPLICATION NO. PCT/EP2004/007799	ATTORNEY'S DOCKET NUMBER 670101.403USPC

The following fees are submitted 21. ☒ Basic national fee (37 CFR 1.492(a)) $300.00	$300.00	
22. ☒ Examination fee (37 CFR 1.492(c)) If the written opinion prepared by ISA/US or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4) ..... $ 0.00 All other situations $200.00	$200.00	
23. ☒ Search fee (37 CFR 1.492(b)) If the written opinion of the ISA/US or the international preliminary examination report prepared by the IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4) ..... $ 0.00 Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority ..... $100.00 International Search Report prepared by an ISA other than the US and provided to the Office or previously communicated to the US by the IB ..... $400.00 All other situations $500.00	$400.00	
TOTAL OF 21, 22 AND 23 =	$900.00	
☐ Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing in compliance with 37 CFR 1.821(c) or (e) or computer program listing in an electronic medium) (37 CFR 1.492(j)). The fee is $250 for each additional 50 sheets of paper or fraction thereof.		

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof (round up to a whole number)	RATE		
42 - 100 = 0	0/50 =	0	X $250.00	$ .00	
Surcharge of $130.00 for furnishing any of the search fee, examination fee, or the oath or declaration after the date of commencement of the national stage (37 CFR 1.492(h)).				$130.00	

Claims	Number Filed	Number Extra	Rate		
Total Claims	- 20 =		x $ 50.00	$ .00	
Independent Claims	- 3 =		x $ 200.00	$ .00	
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ $360.00	$ .00	
TOTAL OF ABOVE CALCULATIONS =				$1,030.00	
☐ Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by ½.				$ .00	
SUBTOTAL =				$1,030.00	
Processing fee of $130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)). +				$ .00	
TOTAL NATIONAL FEE =				$1,030.00	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). $40.00 per property +				$ .00	
TOTAL FEES ENCLOSED =				$1,030.00	
				Amount to be refunded:	
				Amount to be Charged:	

U.S. APPLICATION NO. (If known, see 37 CFR 1.5)	INTERNATIONAL APPLICATION NO.	ATTORNEY'S DOCKET NUMBER
	PCT/EP2004/007799	670101.403USPC

a. [X] A check in the amount of $1,030 to cover the above fees is enclosed.

b. [ ] Please charge my Deposit Account No. 19-1090 in the amount of $_____ to cover the above fees. A duplicate copy of this sheet is enclosed.

c. [X] The Commissioner is hereby authorized to charge any deficiency in the basic national fee which may be required, or credit any overpayment to Deposit Account No. 19-1090. A duplicate copy of this sheet is enclosed.

d. [ ] Fees are to be charged to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.

SEND ALL CORRESPONDENCE TO:

Karl R. Hermanns
Seed Intellectual Property Law Group PLLC
701 5th Avenue, Suite 6300
Seattle, WA 98104-7092
United States of America
(206) 622-4900

SIGNATURE

Karl R. Hermanns
NAME

33,507
REGISTRATION NUMBER

738823_1.DOC

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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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Zhongmin Wang	: DECISION ON REQUEST FOR
Patent Number	: 7662607	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/566,243	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/31/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **475** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PROSKAUER ROSE LLP
One International Place
Boston MA 02110

MAILED

JUN 17 2010

OFFICE OF PETITIONS

In re Application of :
JEFFREY W. RUBERTI ET AL. :
Application No. 10/566,263 : DECISION ON PETITION
Filed: September 28, 2006 : TO WITHDRAW
Attorney Docket No. **00403-8001.US03** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed May 13, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks the name of the first inventor or the assignee of record that is associated with the address listed in the request. Therefore, the change of correspondence address is considered improper.

The Office will only accept correspondence address changes 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, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUINN EMANUEL
KODA & ANDROLIA
865 S. FIGUEROA STREET, 10TH FLOOR
LOS ANGELES CA 90017

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JAN 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Ohshima et al.	:	
Application No.: 10/566287	:	
Filing or 371(c) Date: 01/27/2006	:	DECISION
Attorney Docket Number: 172A3806PCT	:	ON PETITION

This is a decision in response to the Petition to Withdraw Holding of Abandonment Based on Failure to Receive Notice of Allowance, filed November 21, 2007. The petition is properly treated under 37 CFR §1.181(a).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely/properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed July 10, 2007. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on October 11, 2007. A Notice of Abandonment was mailed November 5, 2007.

With the present petition, Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2817 for re-mailing of the Notice of Allowance and Issue Fee Due and Notice of Allowability and for re-starting the period for reply.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
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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26 JUL 2006

Arendt Fox PLLC
1050 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036

In re Application of	:	
ALMIRANTE et al.	:	
U.S. Application No.: 10/566,292	:	DECISION ON PETITION
PCT No.: PCT/EP04/51550	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 20 July 2004	:	
Priority Date: 31 July 2003	:	
Attorney Docket No.: 026220-00073	:	
For: ANGIOTENSIN II RECEPTOR BLOCKER DERIVATIVES	:	

This decision is issued in response to applicants' "Petition under 37 CFR 1.47(a)" filed 06 June 2006 to accept the application without the signature of joint-inventor, Piero Del Soldato.

BACKGROUND

On 20 July 2004, applicants filed international application PCT/EP04/51550 which claimed a priority date of 31 July 2004. 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 thirty-month period for paying the basic national fee in the United States expired at midnight on 31 January 2006.

On 27 January 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment; and a declaration executed by two of the three joint-inventors.

On 08 May 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 06 June 2006, applicants filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor.

A review of the papers filed 27 January 2006 and 06 June 2006 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor (Piero Del Soldato) refused to sign, stated the last known address of the non-signing inventor (Piero Del Soldato), and provided an acceptable declaration. Accordingly, all of the requirements of items (1), (2), (3), and (4) above have been satisfied.

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**.

The application will be given an international filing date of 20 July 2004 under 35 U.S.C. 363, and a date of **27 January 2006** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJr: 07-06

Paper No: __

HESLIN ROTHENBERG
FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

COPY MAILED

JUL 12 2006

OFFICE OF PETITIONS

In re Application of :
Aharoni :
Application No. 10/566,321 : DECISION
Filed: 27 January, 2006 :
Attorney Docket No.: 2488034 :

This is a decision on the petition under 37 C.F.R. §1.10, filed on 4 May, 2006, and seeking for the above-identified application a filing date of 27 January, 2006, rather than the presently accorded filing date of 26 January, 2006.

The petition is **GRANTED**.

BACKGROUND AND ANALYSIS

The controlling regulations are set forth at under 37 C.F.R. §1.10.[1]

[1] The regulations at 37 C.F.R. §1.10 provide:

§ 1.10 Filing of papers and fees by "Express Mail."

(a) Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).

(b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the 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:

The record reflects that:

- the instant application, averred to have been transmitted the package bearing US Postal Service (USPS) Express Mail Label No. EV748031757US, was received by the Office and given a filing date of 26 January, 2006;

- with the instant petition Petitioner provided, *inter alia*, (a) what is averred to be a true copy of the USPS Express Mail Label No. EV748031757US, with the hand-written "date in" of "1 [-] 26 [-] 06," and (b) Petitioner avers that he deposited the package in question with the USPS on 27 January, 2006, and the transmittal for the instant application bears the USPS Express Mail Label No. EV748031757US;

- while further, Petitioner offers what is averred to be a true copy of the USPS Track &

---

(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.

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office toAddressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

[48 Fed. Reg. 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983, paras. (a) & (c), 49 Fed. Reg. 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a)-(c) revised and paras. (d) - (f) added, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

Confirm statement from the USPS website provides the following detail: "Acceptance January 27, 2006, 4:36 pm, GUILDERLAND, NY 12084" for the package transmitted bearing the USPS Express Mail Label No. EV748031757US.

Petitioner is reminded that the rules envision Petitioner also creating and maintaining a log entry of such Express Mail deposits, which entry is created within one business day of the deposit of the Express Mail package with the USPS.

Accordingly, the petition hereby is **granted**; the petition fee is waived.

The instant file is released to OIPE to correct the filing date so as to accord to the instant application a filing date of 27 January, 2006, and to mail to Petitioner a corrected filing receipt reflecting a filing date of 27 January, 2006.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior 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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LADAS & PARRY
5670 WILSHIRE BOULEVARD
LOS ANGELES, CA 90036-5679

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JAN 15 2008

OFFICE OF PETITIONS

In re Application of :
NAKASATO, et al. :
Application No. 10/566,335 : DECISION ON PETITION
Filed: January 27, 2006 : TO WITHDRAW
Attorney Docket No. **623220** : 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 1, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **LADAS & PARRY** has been revoked and re-appointed by the applicant of the patent application on August 23, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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KAPLAN GILMAN & PERGAMENT LLP
1480 ROUTE 9 NORTH
WOODBRIDGE NJ 07095

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SEP 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Herr et al.	:	
Application No. 10/566,342	:	ON PETITION
Filed: January 27, 2006	:	
Attorney Docket No. 853-004	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 15, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

As the Power of Attorney was only recently given to the petitioner, 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.

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 $1,110.00 extension of time fee submitted with the petition as subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 1626 for further examination on the merits.

Liana Walsh
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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Kaplan Gilman & Pergament LLP
1480 Route 9 North
Woodbridge, NJ 07095

Mail Date: 04/21/2010

Applicant	: Robert Jason Herr	: DECISION ON REQUEST FOR
Patent Number	: 7662771	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/566,342	: OF WYETH
Filed	: 01/27/2006	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HELLER EHRMAN LLP
1717 RHODE ISLAND AVE, NW
WASHINGTON DC 20036-3001

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MAR 2 9 2007

OFFICE OF PETITIONS

In re Application of
Gunter Hoelzemann, et al.
Application No. 10/566,351
Filed: January 30, 2006
Attorney Docket No. 24945-0032

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 December 5, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Heller Ehrman, LLP has been revoked by the assignee of the patent application on December 20, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: RONALD J. KAMIS, ESQ.
BAKER & DANIELS, LLP
805 15TH STREET, NW
SUITE 700
WASHINGTON, DC 20005

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/566,351	01/30/2006	Gunter Hoelzemann	24945-0032

CONFIRMATION NO. 2523

OC000000022951356

OC000000022951356

26633
HELLER EHRMAN LLP
1717 RHODE ISLAND AVE, NW
WASHINGTON, DC 20036-3001

Date Mailed: 03/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/20/2006.

- 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

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Paper No.

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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MAR 2 8 2008

OFFICE OF PETITIONS

In re Application of :
Christian Schieblich : DECISION ON
Application No. 10/566,357 : PETITION
Filed: January 30, 2006 :
Attorney Docket No. 1454.1668 :

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181," filed January 11, 2008.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed June 26, 2007. The Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under 37 CFR 1.136(a). No reply considered received and no extension considered obtained, the application became abandoned effective September 27, 2007. A courtesy Notice of Abandonment was mailed on December 27, 2007.

In response, applicant timely filed the instant petition. It is contended that applicant timely submitted a Response to the Office Action on November 7, 2007. However, due to a clerical error, the application number on the papers was erroneously written as 10/556,357. It is noted that the response contained the correct inventor name, the application title and the attorney of record, which did not correspond to the erroneous application number. In support thereof, applicant provided copies of their itemized return postcard and the response as applicant maintains it was filed on November 7, 2007.

A review of the petition and of the record of the misidentified application confirms that the response as petitioner maintains it was filed on November 7, 2007 was, in fact, filed with the

wrong application number. Further investigation reveals that the response with a date of receipt of November 7, 2007 (along with the necessary extension of time for response within the second month) was entered in the misidentified application. This (including transfer of the $420 independent claim fee and the $460 extension fee) has been corrected. The response filed November 7, 2007, has been "moved" from the electronic record of the incorrectly identified application to the record of the instant application. Moreover, given the extension of time, the response is considered timely filing.

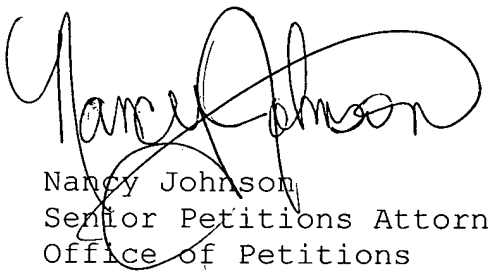
In view thereof, the notice of abandonment mailed December 27, 2007 and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3662 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment and for the examiner to consider the response timely filed November 7, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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APR 17 2008

In re Application of :
Kunihiko Tsunedomi, et al. :
Application No.: 10/566,359 : ON PETITION
Filed: January 30, 2006 :
Attorney Docket No.: 05620857315US :

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 **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 26, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2121 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B - Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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SEP 02 2008

In re Application of	:	
Kunihiko Tsunedomi, et al.	:	
Application No. 10/566,359	:	DECISION GRANTING PETITION
Filed: January 30, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 05620857315US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 28, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 12, 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2121 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

[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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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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JAN 15 2010

In re Application of	:	
Chapoy et al.	:	DECISION ON PETITION
Application No. 10/566,406	:	TO WITHDRAW
Filed: July 10, 2006	:	FROM RECORD
Attorney Docket No. 085449-0192	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 24, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Michele Simkin on behalf of all attorneys of record who are associated with customer No. 22428.

All attorneys/agents associated with the Customer Number 22428 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

The correspondence address of record remains unchanged.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, there is 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: Michele Simkin
Washington Harbour
3000 K Street NW, Suite 600
Washington, D.C. 20007-5109

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17 JAN 2007

Mark B. Garred
Stetina, Brunda, Garred & Brucker
75 Enterprise, Suite 250
Aliso Viejo, CA 92656

In re Application of	:	
MOON, et al.	:	
Application No.: 10/566,407	:	
PCT No.: PCT/GB04/03260	:	DECISION ON PAPERS
Int. Filing Date: 28 July 2004	:	
Priority Date: 28 July 2003	:	UNDER 37 CFR 1.42
Attorney Docket No.: MCLRK-009US	:	
For: CAPACITIVE SENSOR	:	

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. The declaration filed 18 August 2006 is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 28 July 2004, applicant filed international application PCT/GB04/03260, which claimed priority to an earlier application filed 28 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 thirty-month period for paying the basic national fee in the United States expired at midnight on 28 January 2006.

On 26 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a First Preliminary amendment.

On 16 June 2006, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 18 August 2006, applicant filed the response including an executed declaration. The present filing includes certification that the mailing was deposited for mailing on 16 August 2006 and it therefore 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 18 August 2006 does not satisfy the requirements under 37 CFR 1.497(b)(2) which provides that:

(2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

The present declaration only provides this information for the deceased inventor. In addition, while applicant has provided documentation showing the two legal representatives, the declaration does not identify the legal representatives by name as is required. As such, it is not possible to accept applicant's request for status under 37 CFR 1.42 at this time.

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

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29 AUG 2007

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Kit M. Stetina
Stetina, Brunda, Garred & Brucker
75 Enterprise, Suite 250
Aliso Viejo, CA 92656

In re Application of	:	
MOON, et al.	:	
Application No.: 10/566,407	:	
PCT No.: PCT/GB04/03260	:	DECISION ON PAPERS
Int. Filing Date: 28 July 2004	:	
Priority Date: 28 July 2003	:	UNDER 37 CFR 1.42
Attorney Docket No.: MCLRK-009US	:	
For: CAPACITIVE SENSOR	:	

This decision is in response to the applicant's "Renewed Petition Under 37 C.F.R. Section 1.42" filed 25 June 2007 in the United States Patent and Trademark Office (USPTO). No petition fee is due.

BACKGROUND

On 17 January 2007, applicant was mailed a decision dismissing applicant's request for status pursuant to 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration.

On 25 June 2007, applicant filed the present response accompanied by a petition for a four-month extension of time. With the filing of the extension of time petition and payment of the appropriate extension fee, the renewed request 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."

Applicant has presently filed an executed declaration signed by the legal representative which provides the above information for both the deceased inventor and his legal representative 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 has an international application filing date of 28 July 2004 and will be given a date of **25 June 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

06 APR 2007

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Davis Wright Tremaine
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101-1688

In re Application of :
HURST et al. :
U.S. Application No. 10/566,410 : DECISION ON PETITION
PCT No.: PCT/US04/017921 :
It. Filing Date: 04 June 2004 :
Priority Date: 30 July 2003 :
Attorney Docket No.: PP020110000559516313 :
For: METHODS OF THERAPY FOR :
CHRONIC LYMPHOCYTIC LEUKEMIA

This decision is issued in response to "Petition under 37 CFR 1.47(a)" filed 21 February 2007 to accept the application without the signature of joint-inventor, Maurice Wolin.

BACKGROUND

On 04 June 2004, applicants filed international application PCT/US04/017921, which claimed priority of an earlier application filed 30 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 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, 30 January 2006.

On 30 January 2006, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a copy of the international application.

On 21 July 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 21 February 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, (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. Items (1), (3), and (4) have been satisfied.

As to item (2), it is unclear whether the petitioner is asserting that the nonsigning inventor has refused to execute the application or cannot be located to execute the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.
>
> 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.

As to item (2), petitioner has not provided sufficient proof that the nonsigning inventor has refused to execute the application. Petitioner states that a copy of the application papers were mailed to Maurice Wolin on 16 October 2006, 29 January 2007, and 05 February 2007. However, petitioner fails to include evidence to demonstrate that the materials were actually received by the nonsigning inventor. Where the Office is being asked to accept the silence of the nonsigning inventor as evidence of a refusal to sign, petitioner must provide some evidence that the application materials have been received by the nonsigning applicant.

Further, petitioner has not provided sufficient proof that Maurice Wolin is unavailable to execute the application. Petitioner states that an internet searches were done to locate Maurice Wolin, however, no documentary evidence has been provided. As stated above, documentary evidence to show that alternative means were employed, such as a search of telephone and/or Internet directories, telegrams, etc., should be supplied by a person having firsthand knowledge of the facts. It is noted that multiple mailings to the nonsigning inventor's last known address does not constitute a "diligent" effort to locate the inventor.

For the above reasons, it would not be appropriate to accept this application without the signature of Maurice Wolin 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.

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04/05/2007 SBASHEIR 00000008 040258 10566410
01 FC:1463 200.00 DA

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0 5 JUN 2007

Davis Wright Tremaine LLP
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101-1688

In re Application of :
HURST et al. :
U.S. Application No. 10/566,410 : DECISION ON PETITION
PCT No.: PCT/US04/017921 :
It. Filing Date: 04 June 2004 :
Priority Date: 30 July 2003 :
Attorney Docket No.: PP020110000559516313 :
For: METHODS OF THERAPY FOR :
CHRONIC LYMPHOCYTIC LEUKEMIA

This decision is issued in response to applicants' "Response to Decision on Petition under 37 CFR 1.47(a)" filed 29 May 2007. In a decision dated 06 April 2007, applicants' petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor, Maurice Wolin, was dismissed without prejudice.

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 29 May 2007 with the present communication was executed by the named inventor, the previous non-signing inventor, Maurice Wolin. The declaration filed 29 May 2007 is acceptable under 37 CFR 1.497.

For the reasons above, the petition under 37 CFR 1.47(a) is **DISMISSED as MOOT**.

The application has an international filing date of 04 June 2004 under 35 U.S.C. 363 and a date of 29 May 2007 under 35 U.S.C. 371(c)(1),(c)(2) and (c)(4).

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

Mail Date: 04/20/2010

Applicant	: Neville Hedrick	: DECISION ON REQUEST FOR
Patent Number	: 7648311	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/566,418	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/04/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **697** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

Mail Date: 04/21/2010

Applicant	: Akio Iwabuchi	: DECISION ON REQUEST FOR
Patent Number	: 7592683	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/566,421	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **679** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/17/2010

Applicant	: Akiyoshi Yamazaki	: DECISION ON REQUEST FOR
Patent Number	: 7629105	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/566,425	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **705** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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22 AUG 2006

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of	:	
KOBAYASHI et al.	:	
Application No.: 10/566,429	:	NOTIFICATION
Attorney Docket No.: 03500.123386	:	
For: LIQUID MEDICATION CARTRIDGE	:	
AND INHALER USING THE CARTRIDGE	:	

This Notification is in response to applicants' "LETTER CLARIFYING INTENT TO FILE CONTINUATION UNDER 37 CFR 1.53(b)" filed via facsimile transmission on 19 May 2006.

BACKGROUND

On 29 July 2005, applicant filed international application PCT/JP2005/014361, which designated the U.S. and claimed a priority date of 02 August 2004. The thirty-month period for paying the basic national fee in the United States expires at midnight on 02 February 2007.

On 31 January 2006, 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; authorization to charge any additional fees or credit any overpayment to Deposit Account No. 06-1205; a declaration of inventors; and a purported translation into English of the international application including a specification, drawings, and claims. The purported translation of the specification states that the "application is a Continuation of International Application PCT/JP2005/014361 filed July 29, 2005".

On 19 May 2006, applicants submitted the instant "LETTER CLARIFYING INTENT TO FILE CONTINUATION UNDER 37 CFR 1.53(b)" via facsimile transmission.

On 24 July 2006, a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495 (Form PCT/DO/EO/903) showing a 35 U.S.C. 371 date of 31 January 2006 was mailed.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13

entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> * * *
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

The transmittal letter filed on 31 January 2006 identified the application as "a filing under 35 U.S.C. 371." However, the first line of the purported translation of the specification reads "[t]his application is a Continuation of International Application PCT/JP2005/014361 filed July 29, 2005". Applicant's reference in the disclosure to benefit of the international application under 35 U.S.C. § 120 in the first sentence of the specification is inconsistent with the transmittal letter filed 31 January 2006 and contradicts the request in the transmittal letter to file under 35 U.S.C. 371. See, e.g., 35 U.S.C. 365.[1] The transmittal letter used by applicant is to be used only with submissions under 35 U.S.C. 371. Since applicant gave conflicting instructions, the papers should have been considered as having been filed under 35 U.S.C. 111(a). Accordingly, the original papers deposited on 31 January 2006 were improperly accepted as a submission under 35 U.S.C. 371. Therefore, the NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495 (Form PCT/DO/EO/903) mailed 24 July 2006 is hereby VACATED. The application is deemed to have been filed under 35 U.S.C. 111(a).

Continuation Application

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. 10/566,429) and the international application (PCT/JP2005/014361) designating the United States were copending on 31 January 2006.

Applicant is reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit certified copies of the priority documents. The certified copies of priority

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[1]Attention is also directed to MPEP 1893.03(c), which states in part:

> Note: 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 since its filing date is the date of filing of that international application. See also MPEP § 1893.03(b). Stated differently, since the international application is not an earlier application (it has the same filing date as the national stage), a priority claim in the national stage to 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.

documents submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP § 1896.

CONCLUSION

This application is accepted as an application filed under 35 U.S.C. 111(a).

The NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495 (Form PCT/DO/EO/903) mailed 24 July 2006 is hereby VACATED.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the Office of Initial Patent Examination for processing as a national application filed under 35 U.S.C. 111(a).

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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OSHA LIANG, LLP
1221 MCKINNEY STREET
SUITE 2800
HOUSTON, TX 77010

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SEP 12 2008

Applicant: Condemine
Appl. No.: 10/566,451
International Filing Date: July 27, 2004
Title: TRANSMISSION PROTOCOL AUTOMATIC DECTION METHOD FOR A PORTABLE OBJECT SUCH AS A CHIP CARD OR A CHIP
Attorney Docket No.: 11345/099001
Pub. No.: 2007/0171901 A1
Pub. Date: July 26, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on September 27, 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 preliminary amendment to the claims was not included in the publication.

37 CFR 1.221 (b) is applicable "only when the Office makes **a material mistake** which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error noted by requestor with respect to the preliminary amendment is not an Office error. The patent application publication does not include a mistake regarding the failure to include the preliminary amendment to the claims in the publication by the Office because patent application

[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).

publications are not required to include preliminary amendments, according to 37 CFR 1.215(a),[2] which says the following, in part:

> (a) . . . The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. **The patent application publication may also be based upon amendments** to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b), amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun. (emphasis added)

§ 1.215(c) says the following:

> (c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment. Applicant did not file a copy of the application in compliance with the Office electronic filing system requirements.

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 27, 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.

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.

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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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GRIFFIN & SZIPL, PC
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON, VA 22204

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SEP 09 2008

OFFICE OF PETITIONS

In re Application of :
GORR, Gilbert :
Application No. 10/566,496 : DECISION ON PETITION
Filed: January 31, 2006 : TO WITHDRAW
Attorney Docket No. **STURK0022** : 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 19, 2008 and re-submitted on July 11, 2008, July 16, 2008 and August 13, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to GRIFFIN & SZIPL, PC has been revoked by the assignee of the patent application on August 19, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **BIOTECH BEACH LAW GROUP , PC**
625 BROADWAY
SUITE 1210
SAN DIEGO CA 92101

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Paper No.

WILLIAM J. SAPONE
COLEMAN SUDOL SAPONE P.C.
714 COLORADO AVENUE
BRIDGE PORT CT 06605

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JAN 22 2009

OFFICE OF PETITIONS

In re Application of :
Refael Aharon : DECISION ON PETITION
Application No. 10/566,517 :
Filed: January 30, 2006 :
Atty Docket No. 696/9-2202 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed November 17, 2008.

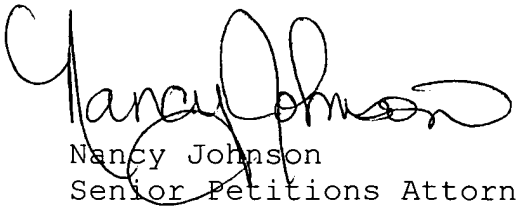
The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed March 18, 2008. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered filed and no extension of time obtained, the application became abandoned effective June 19, 2008. A courtesy Notice of Abandonment was mailed on September 29, 2008.

The petition includes the required reply in the form of an amendment, the required statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 1655 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed November 17, 2008.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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CONTINENTAL TEVES, INC.
ONE CONTINENTAL DRIVE
AUBURN HILLLS, MI 48326-1581

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JUN 16 2008

OFFICE OF PETITIONS

In re Application of :
Micha Henz, et al. :
Application No. 10/566,527 : ON PETITION
Filed: August 28, 2006 :
Attorney Docket No. AP10991 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed March 17, 2008.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before February 14, 2008. A Notice of Abandonment was mailed on March 14, 2008. On March 17, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,440 issue fee and $300 publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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HAHN LOESER & PARKS, LLP
ONE GOJO PLAZA
SUITE 300
AKRON, OH 44311-107

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OFFICE OF PETITIONS

In re Application of
Rajendra Kumar
Application No. 10/566,530
Filed: January 5, 2007
Attorney Docket No. 1386007US1AN

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 13, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Scott M. Oldham on behalf of all attorneys of record who are associated with customer No. 21324.

All attorneys/agents associated with the Customer Number 21324 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: RAJENDRA KUMAR
712 STONECLIFF DRIVE
AKRON, OH 44313

cc: KHYBER TECHNOLOGIES CORPORATION
2841 RIVIERA DRIVE
AKRON, OH 44333

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/566,530	01/05/2007	Rajendra Kumar	

CONFIRMATION NO. 7360

POWER OF ATTORNEY NOTICE

21324
HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON, OH 44311-1076

OC00000029653578

Date Mailed: 04/30/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/13/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

0 6 JUN 2007

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John W Caldwell
Woodcock Washburn
One Liberty Place 46th Floor
Philadelphia, PA 19103

In re Application of :
BECERRA, Sofia Patricia et al. :
Application No.: 10/566,540 :
PCT No.: PCT/US2004/025560 :
Int. Filing Date: 05 August 2004 : DECISION
Priority Date: 07 August 2003 :
Docket No.: NIHA-0238 :
For: PEDF-R RECEPTOR AND USES :

This decision is in response to applicants' submission of a declaration in the above-captioned application on 16 October 2006.

BACKGROUND

On 05 August 2004, applicants filed international application PCT/US2004/025560, claiming a priority date of 07 August 2003. The deadline for entry into the national phase in the United States was 07 February 2006.

On 31 January 2006, applicants submitted a transmittal letter for entry into that national phase in the United States accompanied by the basic national fee.

On 16 October 2006, applicants submitted a declaration of the inventors.

DISCUSSION

The declaration does not comply with 37 CFR 1.497(a)-(b). The declaration is executed by an individual who is not an inventor in the application. Additionally, the declaration must list the citizenship of each inventor. The citizenships of Jorge Laborda Fernandez and Julio Escribano Martinez are not listed.

Finally, the third named inventor is listed as "Jorge Laborda" in the international application and on the first page of both declarations. However on the signature line, the third inventor is listed as "Jorge Laborda Fernandez". An explanation of the discrepancy and a petition under 37 CFR 1.182 to correct the discrepancy is required if international application lists him incorrectly.

CONCLUSION

Applicants are required to submit an oath or declaration in compliance with 37 CFR 1.497(a)-(b) with TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely reply will result in the abandonment of the application.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

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2 9 NOV 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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John W Caldwell
Woodcock Washburn
One Liberty Place 46th Floor
Philadelphia, PA 19103

In re Application of :
BECERRA, Sofia Patricia et al. :
Application No.: 10/566,540 :
PCT No.: PCT/US2004/025560 :
Int. Filing Date: 05 August 2004 : DECISION
Priority Date: 07 August 2003 :
Docket No.: NIHA-0238 :
For: PEDF-R RECEPTOR AND USES :

This decision is in response to applicants' submission of a declaration in the above-captioned application on 04 September 2007.

BACKGROUND

On 06 June 2007, the Office mailed Decision indicating that the declaration of the inventors did not comply with 37 CFR 1.497(a)-(b).

On 04 September 2007, applicants submitted a declaration of the inventors comprised of three pages from the previously submitted declaration and two additional sheets.

DISCUSSION

The declaration does not comply with 37 CFR 1.497(a)-(b). The declaration executed by the first two inventors did not list the citizenships of all inventors and listed someone who was not an inventor. Applicant has now removed pages from the previous declaration and added additional pages.

"[I]t is emphasized that the application filed must be the application executed by the applicant and it is improper for anyone, including counsel, to alter, rewrite, or partly fill in any part of the application, including the oath or declaration, after execution of the oath or declaration by the applicant." MPEP §605.04(a).

A new oath or declaration listing each inventor and each inventor's citizenship is required.

CONCLUSION

Applicants are required to submit an oath or declaration in compliance with 37 CFR 1.497(a)-(b) with TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely reply will result in the abandonment of the application.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia

22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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09 MAY 2008

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John W Caldwell
Woodcock Washburn
One Liberty Place 46th Floor
Philadelphia, PA 19103

In re Application of :
BECERRA, Patricia S., et al. :
Application No.: 10/566,540 :
PCT No.: PCT/US2004/025560 :
Int. Filing Date: 05 August 2004 : DECISION
Priority Date: 07 August 2003 :
Docket No.: NIHA-0238 :
For: PEDF-R RECEPTOR AND USES :

This decision is in response to applicants' submission of a declaration in the above-captioned application on 22 January 2008.

BACKGROUND

On 29 November 2007, the Office mailed Decision indicating that the declaration of the inventors did not comply with 37 CFR 1.497(a)-(b).

On 22 January 2008, applicants submitted a new declaration of the inventors.

DISCUSSION

The declaration does not comply with 37 CFR 1.497(a)-(b). The declaration declaration lists the first inventor as "Sofia Patricia Becerra," but the international application lists her as "Patricia S. Bercerra". The fourth named inventor on the international application is "Julio Escribano Martinez," but on the declaration he is listed as "Julio Escribano-Martinez."

An explanation of the discrepancies and a petition under 37 CFR 1.182 to correct the discrepancies is required if international application listed them incorrectly. If the discrepancy in the name of Mr. Martinez is a typographical error, it can be corrected by a statement indicating such and identifying the correct name.

CONCLUSION

Applicants are required to submit an oath or declaration in compliance with 37 CFR 1.497(a)-(b) with TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely reply will result in the abandonment of the application.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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2 8 AUG 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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John W Caldwell
Woodcock Washburn
One Liberty Place 46th Floor
Philadelphia, PA 19103

In re Application of	:	
BECERRA, S. Patricia, et al.	:	
Application No.: 10/566,540	:	
PCT No.: PCT/US2004/025560	:	
Int. Filing Date: 05 August 2004	:	DECISION
Priority Date: 07 August 2003	:	
Docket No.: NIHA-0238	:	
For: PEDF-R RECEPTOR AND USES	:	

This decision is in response to applicants' renewed petition filed in the above-captioned application on 02 July 2008.

BACKGROUND

On 09 May 2008, the Office mailed Decision indicating that the declaration of the inventors did not comply with 37 CFR 1.497(a)-(b) as the names of two inventors did not match the published international application.

On 02 July 2008, applicants submitted this renewed petition.

DISCUSSION

The declaration does not comply with 37 CFR 1.497(a)-(b). The declaration declaration lists the first inventor as "Sofia Patricia Becerra," but the international application lists her as "Patricia S. Bercerra". However, applicants have presented a copy of the originally filed request form showing that inventor Becerra was listed as "S. Patricia Becerra" on the Request form. Applicants contend that the International Bureau incorrectly published the inventor's name. This is adequate explanation of the discrepancy.

The fourth named inventor on the international application is "Julio Escribano Martinez," but on the declaration he is listed as "Julio Escribano-Martinez." Applicants now indicate that "Julio Escribano-Martinez" is the correct spelling of the inventor's name.

CONCLUSION

For the above reasons, applicants' declaration is in compliance with 37 CFR 1.497(a)-(b).

This application is being referred to the National Stage Processing Branch of the Office of Patent Application Processing for further action consistent with this decision. The application has a 35 USC 371(c)(1), (c)(2), and (c)(4) date of 22 January 2008.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450

FISH AND RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

COPY MAILED

JUN 0 6 2008

Applicant: Zhi.
Appl. No.: 10/566,569
International Filing Date: August 23, 2004
Title: 6-CYCLOAMINO-2-QUINOLINONE DERIVATIVES AS ANDROGEN RECEPTOR MODULAR COMPOUNDS
Attorney Docket No.: 18202-030ua1/1111US
Pub. No.: US 2007/0066650 A1
Pub. Date: March 22, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 10, 2007, for the above-identified application.

Applicant requests that the application be republished because the patent application publication contains materials error in claims 13, 22 and 24.

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.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

United States Patent and Trademark Office

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Arlington Courthouse Plaza 1
2200 Clarendon Boulevard, Suite 1400
Arlington, VA 22201

28 FEB 2007

In re Application of	:	
Weinstein et al.	:	
Application No.: 10/566,586	:	DECISION
PCT No.: PCT/US04/02064	:	
Int. Filing Date: 28 January 2004	:	ON
Priority Date: 31 July 2003	:	
Attorney Docket No.: GMU-0001	:	PETITION
For: Compositions And Methods For Treating Or Preventing HIV Infection	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 19 December 2006 and the supplemental correspondence filed on 26 December 2006.

BACKGROUND

This international application was filed on 28 January 2004, claimed an earliest priority date of 31 July 2003, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 31 January 2006. Applicants filed *inter alia* the basic national fee on 31 January 2006.

On 24 July 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the filing of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and a $65.00 surcharge under 37 CFR 1.492(h).

DISCUSSION

Applicants filed a petition under 37 CFR 1.47(a) on 19 December 2006, seeking to excuse the absence of the signature of joint inventor Dr. Kenneth Alibek. However, on 26 December 2006, applicants filed an "Amendment..." to the petition, indicating that "after the Petition was filed, Dr. Alibek decided to sign his supplemental declaration." Also filed on 26 December 2006 was a declaration document nominating and signed by Dr. Alibek. In view of the 26 December 2006 submission, the petition under 37 CFR 1.47(a) filed on 19 December 2006 is **DISMISSED AS MOOT**.

Inspection of the declaration filed on 26 December 2006 reveals that it consists of a single sheet, identified as "Page 2 of 2." This sheet neither identifies the patent application to which it is directed nor includes the statements required by 37 CFR 1.63. Moreover, it nominates only Dr. Alibek, and not the other inventors named in the published international application (Raymond Weinstein and Michael Weinstein). Moreover, the name appearing on the declaration, "Kenneth Alibek," differs from that appearing in the published international application ("ALIBEK, Ken"). To the extent that this discrepancy represents more than a typographical error or phonetic misspelling, a proper petition (and fee) would be required to accept the name as "Kenneth" rather

than "Ken." *See* MPEP 605.04(b). As such, the declaration does not comply with the requirements of 37 CFR 1.497(a) and (b).

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**, without prejudice.

A proper response (including an oath or declaration compliant with 37 CFR 1.497(a) and (b)) must be filed within **ONE (1) MONTH** from the mail date of this decision. Extensions of time may **NOT** 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
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0 2 APR 2007

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2200 Clarendon Boulevard, Suite 1400
Arlington, VA 22201

In re Application of	:	
Weinstein et al.	:	
Application No.: 10/566,586	:	DECISION
PCT No.: PCT/US04/02064	:	
Int. Filing Date: 28 January 2004	:	ON
Priority Date: 31 July 2003	:	
Attorney Docket No.: GMU-0001	:	PETITION
For: Compositions And Methods For Treating Or Preventing HIV Infection	:	

This is in response to applicants' response, filed 16 March 2007, to the decision on petition under 37 CFR 1.47(a) mailed on 28 February 2007.

DISCUSSION

In a Decision mailed on 28 February 2007, the petition under 37 CFR 1.47(a) filed on 19 December 2006 was dismissed as moot because

> Applicants filed a petition under 37 CFR 1.47(a) on 19 December 2006, seeking to excuse the absence of the signature of joint inventor Dr. Kenneth Alibek. However, on 26 December 2006, applicants filed an "Amendment..." to the petition, indicating that "after the Petition was filed, Dr. Alibek decided to sign his supplemental declaration." Also filed on 26 December 2006 was a declaration document nominating and signed by Dr. Alibek. In view of the 26 December 2006 submission, the petition under 37 CFR 1.47(a) filed on 19 December 2006 is **DISMISSED AS MOOT**.
>
> Inspection of the declaration filed on 26 December 2006 reveals that it consists of a single sheet, identified as "Page 2 of 2." This sheet neither identifies the patent application to which it is directed nor includes the statements required by 37 CFR 1.63. Moreover, it nominates only Dr. Alibek, and not the other inventors named in the published international application (Raymond Weinstein and Michael Weinstein). Moreover, the name appearing on the declaration, "Kenneth Alibek," differs from that appearing in the published international application ("ALIBEK, Ken"). To the extent that this discrepancy represents more than a typographical error or phonetic misspelling, a proper petition (and fee) would be required to accept the name as "Kenneth" rather than "Ken." *See* MPEP 605.04(b). As such, the declaration does not comply with the requirements of 37 CFR 1.497(a) and (b).

In response, applicants have submitted a newly executed declaration document. Review of said declaration reveals that it appears to have been assembled by combining sheets separately signed by each inventor into a single document. This impression is enhanced by counsel's

characterization of the declaration as a "complete set of signed declarations." Applicants' attention is drawn to MPEP 201.03, which explains in part that

> *While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).*

Since applicants do not appear to have submitted complete copies of each declaration document, it would not be appropriate to accept the declaration filed on 16 March 2007.

DECISION

The declaration filed on 16 March 2007 is **NOT ACCEPTED**, without prejudice.

Applicants must file an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within the longer of either (a) **ONE (1) MONTH** from the mailing date of this decision (***NOT*** extendable under 37 CFR 1.136(a)) or (b) the remaining period for response to the decision mailed on 28 February 2007, as extended under CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

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25 JUN 2007
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2200 Clarendon Boulevard, Suite 1400
Arlington, VA 22201

In re Application of	:	
Weinstein et al.	:	
App. No.: 10/566,586	:	
PCT No.: PCT/US04/02064	:	
Int. Filing Date: 28 January 2004	:	DECISION
Priority Date: 31 July 2003	:	
Attorney Docket No.: GMU-0001	:	
For: Compositions And Methods For Treating Or Preventing HIV Infection	:	

This is in response to applicants' response filed 26 April 2007.

DISCUSSION

In a Decision mailed on 02 April 2007, the declaration filed on 16 March 2007 was treated as follows:

> In response, applicants have submitted a newly executed declaration document. Review of said declaration reveals that it appears to have been assembled by combining sheets separately signed by each inventor into a single document. This impression is enhanced by counsel's characterization of the declaration as a "complete set of signed declarations." Applicants' attention is drawn to MPEP 201.03, which explains in part that
>
> > *While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).*
>
> Since applicants do not appear to have submitted complete copies of each declaration document, it would not be appropriate to accept the declaration filed on 16 March 2007.

The current response includes three declaration documents, each naming and executed by one of the inventors. Counsel is referred again to MPEP 201.03, which states in part that "*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.*" None of the

declaration documents filed on 26 April 2007 complies with this practice because none of them nominate the entire inventive entity.

DECISION

The declaration filed on 26 April 2007 is **NOT ACCEPTED**, without prejudice.

Applicants must file an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within the remaining period for response to the decision mailed on 28 February 2007, as extended under CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

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2 8 SEP 2007

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In re Application of	:	
Weinstein et al.	:	
App. No.: 10/566,586	:	
PCT No.: PCT/US04/02064	:	
Int. Filing Date: 28 January 2004	:	DECISION
Priority Date: 31 July 2003	:	
Attorney Docket No.: GMU-0001	:	
For: Compositions And Methods For Treating Or Preventing HIV Infection	:	

This is in response to applicants' response filed 23 August 2007.

DISCUSSION

In a Decision mailed on 25 June 2007, the declaration filed on 26 April 2007 was treated as follows:

> The current response includes three declaration documents, each naming and executed by one of the inventors. Counsel is referred again to MPEP 201.03, which states in part that "*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.*" None of the declaration documents filed on 26 April 2007 complies with this practice because none of them nominate the entire inventive entity.

On 20 August 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States because "Petition dated 6-25-07 to be abandoned."

Petition Under 37 CFR 1.137(b)

In response, petitioner has filed a petition for revival pursuant to 37 CFR 1.137(b).

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 an acceptable declaration (as discussed below), and has paid the petition fee. Thus, the requirements of 37 CFR 1.137(b) have been satisfied.

Declaration of Inventorship

Petitioner's correspondence filed on 23 August 2007 includes a declaration of the inventors. Inspection of this declaration reveals that it is acceptable for purposes of compliance with 37 CFR 1.497(a) and (b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

The declaration filed on 23 August 2007 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **23 August 2007**.

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27 FEB 2006

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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

In re Application of	:	
BUHL, Anne Louise	:	
Application No.: 10/566,590	:	DECISION
PCT No.: PCT/DK04/00084	:	
Int. Filing Date: 04 February 2004	:	ON PETITION UNDER
Priority Date: 04 February 2003	:	
Docket No.: P71106US0	:	37 CFR 1.137(b)
For: A PACKAGE FOR AN OSTOMY APPLIANCE	:	

Applicants' "Petition For Revival of an International Application For Patent Designating the United States Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 31 January 2006 is **GRANTED**.

Applicants state that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/2/10 Paper No.: —

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/576601 Patent No.: 7645858B2

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

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: _____

Carlos Kay SPE Art Unit 1654

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/2/10

Paper No.: —

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/576601 Patent No.: 7645858B2

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

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: _____

Cecilia Tsang, SPE, 1654

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05 DEC 2006

James A. Oliff
Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of	:	
NAKAMURA	:	
Application No.: 10/566,607	:	DECISION ON PETITION
PCT No.: PCT/JP04/17652	:	
Int. Filing Date: 19 November 2004	:	UNDER 37 CFR 1.181
Priority Date: 25 November 2003	:	
Atty Docket No.: 126868	:	
For: METHOD OF PRODUCTION OF SILICON CARBIDE SINGLE CRYSTAL	:	

This is a decision on applicant's petition under 37 CFR 1.181 filed 29 September 2006 in the United States Patent and Trademark Office (USPTO). No petition fee is due.

BACKGROUND

On 31 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a first preliminary amendment; an application data sheet and an executed declaration of the inventor.

On 19 June 2006, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide 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. Applicant was afforded two months to file the proper response.

On 21 July 2006, applicant filed a response including a copy of the executed declaration along with a postcard receipt indicating that the declaration had been filed with the initial filing on 31 January 2006.

On 06 September 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 July 2006.

On 29 September 2006, applicant filed the present petition claiming that the 371 requirements were satisfied on 31 January 2006 and requesting a new Form PCT/DO/EO/903.

DISCUSSION

Applicant has provided a legible copy of the receipt postcard which shows a USPTO date stamp, "OIPE IAP13 PATENT & TRADEMARK OFFICE JAN 31 2006" and lists as one of the filed items "dec" as well as listing the title, applicant and attorney docket number. The postcard has not been annotated in any way to indicate that the declaration was not received. The evidence is sufficient to establish that the declaration for this application was received in the USPTO on 31 January 2006.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The application has an international filing date of 19 November 2004 under 35 U.S.C. 363 and will be given a date of **31 January 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 06 September 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
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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,607	01/31/2006	Masateru Nakamura	126868	7140

25944 7590 07/31/2009

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER	
STALDER, MELISSA A	

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
07/31/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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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wk

JUL 31 2009

In re application of :
Nakamura : DECISION ON
Serial No. 10/566,607 : PETITION
Filed: January 31, 2006 :
For: Method Of Production Of Silicon Carbide Single Crystal

This is a decision on the request filed on June 25, 2009. The request is to reset the time period for response for the Notice of Allowance that was mailed by the USPTO on May 14, 2009. A review of the record indicates that a new notice of allowance has already been mailed to the applicant on July 10, 2009.

DECISION

The Petition is **DISMISSED** as moot.

/Gregory L Mills/
Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

James A. Oliff
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

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Eitan Law Group
C/O LandonIP, Inc.
Suite 450
1700 Diagonal Road
Alexandria VA 22314

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AUG 27 2008

Applicant: Ben-Yosef et al.
Appl. No.: 10/566,641
International Filing Date: July 28, 2004
Title: DIAPHRAGM PUMP
Attorney Docket: P-9451-US
Pub. No.: US 2007/0081907 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 October 21, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error wherein the international filing date was incorrectly printed on the front page of the publication.

With respect to the paper titled "Request for Corrected Filing Receipt and Publication" received on October 21, 2007, Applicant is reminded that 37 CFR 1.4(c) provides "since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects."

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]

[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 October 21, 2007, was not timely filed under 37 CFR 1.221(b).

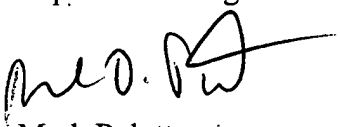
Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent is issued before the application is republished.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE FIRM OF HUESCHEN AND SAGE
SEVENTH FLOOR, KALAMAZOO BUILDING
107 WEST MICHIGAN AVENUE
KALAMAZOO MI 49007

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OFFICE OF PETITIONS

In re Application of	:	
Geneste et al.	:	
Application No. 10/566,668	:	DECISION ON PETITION
Filed: January 31, 2006	:	
Attorney Docket No. SERVIER 483 PCT SEQ	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 1, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 24, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed June 24, 2008. Accordingly, the date of abandonment of this application is September 25, 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 $1,440.00 and publication fee of $300.00, (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692.

This application is being referred to the Office of Data Management for processing into a patent.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Masaaki Kaneko	: DECISION ON REQUEST FOR
Patent Number	: 7637334	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/566,672	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/01/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **782** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/566,675	02/01/2006	Thierry Dumery	4005-0274PUS1

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

DATE MAILED: August 14, 2006

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)
The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d) filed on August 14, 2006, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

~ 1. The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

~ 2. The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

~ 3. The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

STEVENS, DAVIS, MILLER & MOSHER, LLP
1615 L. STREET N.W.
SUITE 850
WASHINGTON DC 20036

In re Application of
Kiyotaka KOBAYASHI, et al.
Application No. 10/566,682
Filed: March 14, 2006
For: **RADIO TRANSMITTING APPARATUS AND RADIO TRANSMISSION METHOD**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed July 25, 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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OFFICE OF PETITIONS

SHELDON MAK ROSE & ANDERSON PC
100 Corson Street
Third Floor
PASADENA CA 91103-3842

In re Application of :
Harvey L. Deutsch :
Application No. 10/566,693 : ON PETITION
Filed: January 31, 2006 :
Attorney Docket No. 14853-3US :

This is a decision on the petition under 37 CFR 1.137(b), filed May 1, 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 October 22, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 23, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received have been received. Accordingly, the reply to the Restriction/Election of May 1, 2009 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Ron Abelson at (571) 272-3165 or in his absence, the undersigned at (571) 272-7099.

Application No. 10/566,693

The application file is being referred to Technology Center AU 3761 for appropriate action.

David Bucci
Petitions Examiner
Office of Petitions

cc:
Arthur E Jackson, Esq.
Moser IP Law Group
1030 Broad Street, 2nd Floor
Shrewsbury, NJ 07702

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SHELDON MAK ROSE & ANDERSON PC
100 Corson Street, 3RD
Pasadena, CA 91103-3842

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SEP 25 2009

OFFICE OF PETITIONS

In re Application of :
Harvey L. Deutsch :
Application No. 10/566,693 : DECISION ON PETITION
Filed: January 31, 2006 : TO WITHDRAW
Attorney Docket No. 14853-3US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 29, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David A. Farah on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor t at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed September 1, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Harvey L. Deutsch**
350 Comstock Avenue
Los Angeles, CA 90024

cc: **THE CATHETER EXCHANGE, INC.**
16633 Ventura Boulevard, Suite #735
Encino, CA 91436

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/566,693	01/31/2006	Harvey L. Deutsch	14853-3US

CONFIRMATION NO. 1140

POWER OF ATTORNEY NOTICE

23676
SHELDON MAK ROSE & ANDERSON PC
100 Corson Street
Third Floor
PASADENA, CA 91103-3842

Date Mailed: 09/25/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/29/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

Mail Date: 04/21/2010

Applicant	: Matthias Frauenkron	: DECISION ON REQUEST FOR
Patent Number	: 7601875	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/566,694	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **770** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

Mail Date: 04/20/2010

Applicant	: Atsushi Yoshimi	: DECISION ON REQUEST FOR
Patent Number	: 7624583	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/566,726	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **974** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

08 SEP 2006

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Jules Goldberg
REED SMITH LLP
599 Lexington Avenue
New York, NY 10022-7650

In re Application of :
NOUTARY :
U.S. Application No.: 10/566,745 :
PCT No.: PCT/EP2005/012448 : **DECISION**
Int. Filing Date: 26 July 2004 :
Priority Date: 01 August 2003 :
Docket No.: JG-ELK-5232/501100.20017 :
For: A PRINTING INK :

This is a decision on the request to add an inventor in the above-captioned application filed 24 July 2006. This is treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 01 February 2006, applicant filed papers to enter the national phase of PCT/EP2005/012448 pursuant to 35 U.S.C. 371. The international publication ("WO/2005/012448") recorded Carole Noutary as the sole inventor of PCT/EP2005/012448.

On 11 May 2006, applicant submitted a declaration executed by Ms. Noutary.

On 30 June 2006, applicants filed the subject petition which was accompanied by, *inter alia*, an executed declaration; the processing fee; a "Statement of Angelique Catherine Joyce Runacre"; and a "Declaration" of the assignee.

DISCUSSION

Applicants request to add Ms. Runacre as an inventor in the above-captioned application. 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> (1) A statement from each person being added as an inventor that any

error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17(l); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Here, applicants filed a statement by Ms. Runacre who requests to be added as an inventor in the above-captioned application. Ms. Runacre states that the error in inventorship "occurred without deceptive intention on my part." The processing fee of $130.00 has been paid. Petitioner also states that the assignment to Sericol Limited is recorded at reel 016075, frame 0758 and submitted a declaration of the assignee consenting to the change of inventorship. This document was signed by Robert Augustus Fassam as Technical Director.

The Consent of Assignee is not accepted for the following reason. MPEP § 324 states that: "[a] person having a title (manager, director, administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to be an officer of the assignee or to have authority to sign the statement on behalf of the assignee.

The consent of assignee was signed by Mr. Fassam as Technical Director of Sericol Limited. This position is not presumed to have authority to sign the statement on behalf of the assignee. In addition, the submission does not set forth that Mr. Fassam is authorized to act on behalf of the assignee.

Therefore, all the requirements of 37 CFR 1.497(d) are not yet complete.

CONCLUSION

For the reason discussed above, applicants' request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

It is also noted that the declaration signed by Ms. Runacre does not list all of the inventors. Thus, this declaration does not comply with 37 CFR 1.497(a)(3).

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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DUANE MORRIS LLP – NY
PATENT DEPARTMENT
1540 BROADWAY
NEW YORK NY 10036-4086

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FEB 1 1 2009

OFFICE OF PETITIONS

In re Application of
Carole Noutary
Application No.10/566,745
Filed: February 1, 2006
Attorney Docket No. 10/566,745

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed April 30, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the reply received December 30, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

15 JUL 2009

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

In re Application of CHILDS et al	:	
U.S. Application No.: 10/566,758	:	
PCT Application No.: PCT/IB2004/002582	:	DECISION
Int. Filing Date: 30 July 2004	:	
Priority Date Claimed: 08 August 2003	:	
Attorney Docket No.: GB030134	:	
For: ELECTROLUMINESCENT DISPLAY DEVICES	:	

This is in response to the petition under 37 CFR 1.182 filed 22 May 2009.

BACKGROUND

On 30 July 2004, applicant filed international application PCT/IB2004/022582, which claimed priority of an earlier application filed 08 August 2003. The thirty-month period for paying the basic national fee in the United States expired on 08 February 2006.

On 31 January 2006, 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 24 March 2009, this Office mailed a communication which identified a discrepancy with respect to the international application number.

On 22 May 2009, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

Although the transmittal letter filed 31 January 2006 references international application number PCT/IB2004/022582, the declaration references international application number PCT/IB2004/002582. The present petition states that the incorrect international application number was inadvertently listed on the transmittal letter. Applicant's explanation for the error is

accepted. The requisite petition fee will be charged to Deposit Account No. 14-1270 as authorized in the petition.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 30 July 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 31 January 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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Gordon J. Pike
Title	:	SUBMARINE EMERGENCY EVACUATION SYSTEM
Serial No.	:	10/566,770
Filing Date	:	September 1, 2006
Customer No.	:	000116
Docket	:	39540

RECEIVED
7 DEC 2006
Legal Staff
International Division

REQUEST FOR REFUND

Mail Stop PCT
Attn: PCT Legal Office
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant is stating herein that the above-identified application was filed as a small entity and is still entitled to small entity status. Enclosed herewith is a copy of our August 28, 2006 letter in response to the Notification of Missing Requirements in which the entitlement to small entity status was emphasized. Our Check No. 68364 for $900 was enclosed with the application as filed on January 31, 2006. A copy of our Deposit Account No. 16-0820 as debited on August 7, 2006 for $900 is also enclosed. Thus we have been charged for this application at the large entity rate.

In a telephone conversation on December 6, 2006 with a representative at the PCT Help Desk, we were told to fax this refund request to the attention of the PCT Legal Office. Accordingly, applicant herein respectfully requests a credit in the amount of $900 to correct the filing fee overcharge.

Applicant is also enclosing a copy of the filing receipt mailed November 28, 2006 which shows the filing fee as received at the large entity rate. Please issue a corrected filing receipt showing the fee at the small entity rate ($900 filing fee and $65 late filing fee surcharge).

Respectfully submitted,
PEARNE & GORDON LLP

By John P. Murtaugh
John P. Murtaugh, Reg. No. 34226

1801 East 9th Street, Suite 1200
Cleveland, Ohio 44114-3106
(216) 579-1700
Date: 12-7-06

FAX NO. 1-571-273-0459
Total Transmission - 6 pages

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on the date indicated below.

John P. Murtaugh
Name of Attorney for Applicant(s)

December 7, 2006 John P. Murtaugh
Date Signature of Attorney

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Gordon J. Pike
Title	:	SUBMARINE EMERGENCY EVACUATION SYSTEM
Serial No.	:	10/566,770
International Filing Date	:	August 6, 2004
International Application No.	:	PCT/CA04/01478
Customer No.	:	000116
Docket	:	39540

RECEIVED
7 DEC 2006
Legal Staff
International Division

LETTER

Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) dated August 8, 2006, (copy enclosed) applicant encloses herewith the required oath or declaration of the inventors. Applicant notes that this application was filed as a small entity and is still entitled to the small entity status. Accordingly, applicant encloses herewith a check in the amount of $65.00 to cover the late filing fee surcharge at the small entity rate. When this application was filed on Jan. 31, 2006, applicant asserted entitlement to small entity status. At this time, applicant again asserts entitlement to small entity status. If there are any extension fees or other fees required by this communication, please charge any such fees to our Deposit Account No. 16-0820, Order No. 39540.

Respectfully submitted,

PEARNE & GORDON LLP

By John P. Murtaugh
John P. Murtaugh, Reg. No. 34226

1801 East 9th Street, Suite 1200
Cleveland, Ohio 44114-3108
(216) 579-1700

Date: Aug. 28, 2006

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

John P. Murtaugh
Name of Attorney for Applicant(s)

Aug. 28, 2006 John P. Murtaugh
Date Signature of Attorney

Deposit Account Statement

~~08/03~~	~~1882~~	~~0803862~~	~~MWG/STAR 40532~~	~~7203~~	~~$100.00~~	~~$23,492.06~~
~~08/03~~	~~1975~~	~~10597679~~	~~NGB/JJS 41029~~	~~1631~~	~~$300.00~~	~~$23,192.06~~
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~~08/08~~	~~113~~	~~2977224~~	~~MWG/PAC 35361~~	~~8521~~	~~$40.00~~	~~$36,032.06~~
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7/31 ~~08/08~~	~~332~~	~~78917457~~	~~MENT/RAS CN, HK, TW~~ 40761 US1	~~8507~~	~~$45.00~~	~~$35,617.06~~

GLWL

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/566,770	09/01/2006	3617	1865	39540	20	38	2

Should be 965

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NOV 30 2006
PEARNE & GORDON LLP

CONFIRMATION NO. 7827

FILING RECEIPT

OC000000021367643

00116
PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Date Mailed: 11/28/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Gordon J. Pike, St. John's, NF, CANADA;

Power of Attorney: The patent practitioners associated with Customer Number **00116**.

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/CA04/01478 08/06/2004

Foreign Applications

CANADA 2,439,844 09/05/2003

If Required, Foreign Filing License Granted: 11/27/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/566,770

Projected Publication Date: 03/08/2007

Non-Publication Request: No

Early Publication Request: No

Title

Submarine emergency evacuation system

Preliminary Class

114

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, If the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof

unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

****
*** RX REPORT ***
****

RECEPTION OK

TX/RX NO	7051
RECIPIENT ADDRESS	216 579 6073
DESTINATION ID	
ST. TIME	12/07 16:10
TIME USE	01'11
PGS.	6
RESULT	OK

2 8 SEP 2007

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LICATA & TYRRELL P.C.
66 E. MAIN STREET
MARLTON NJ 08053

In re Application of :
Sweeney et al. :
Application No.: 10/566,796 :
PCT No.: PCT/US04/24718 :
Int. Filing Date: 30 July 2004 : DECISION
Priority Date: 01 August 2003 :
Attorney Docket No.: PENN0870US.NP :
For: Bowman-Birk Inhibitor Compositions For Treatment :
Of Muscular Atrophy And Degenerative Muscle Disease :

This is in response to the correspondence filed on 09 November 2006.

BACKGROUND

This international application was filed on 30 July 2004, claimed an earlier priority date of 01 August 2003, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 01 February 2006. Applicants filed *inter alia* the basic national fee on 31 January 2006.

On 09 June 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b), an initial paper of compact disc copy of a sequence listing, an amendment directing its entry, and a copy of the sequence in computer readable form ("CRF").

DISCUSSION

Counsel states that she has

> carefully reviewed the application and respectfully disagrees that a Sequence Listing is required. There are no nucleotide and/or amino acid sequences disclosed in the instant application which require submission of a Sequence Listing. Reconsideration of this requirement is therefore respectfully requested.

Based on counsel's remarks, the requirements included in the Form PCT/DO/EO/905 mailed on 09 June 2005 pertaining to a sequence listing are hereby **WITHDRAWN**.

Applicants also submitted a declaration of inventorship on 09 November 2006. Inspection of this declaration reveals that it appears to have been assembled by adding a second page 3 of 4 to the document. Applicants' attention is drawn to MPEP 201.03, which explains in part that

> An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the

appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

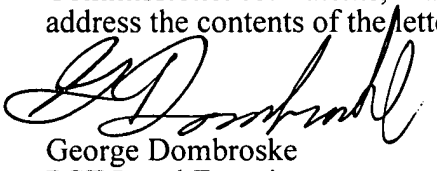
In view of this policy, it would not be appropriate to accept the declaration document filed on 09 November 2006 for purposes of compliance with 37 CFR 1.497(a) and (b). The declaration is also defective in view of the un-initialed alterations to the page signed by Mr. Morris.

DECISION

The declaration is **NOT ACCEPTED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **ONE (1) MONTH** from the mail date of this decision. Extensions of time may **NOT** be obtained under 37 CFR 1.136(a). Failure to timely file a proper response (specifically, an acceptable oath or declaration) 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

31 MAR 2008

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LICATA & TYRRELL P.C.
66 E. MAIN STREET
MARLTON NJ 08053

In re Application of :
Sweeney et al. :
Application No.: 10/566,796 :
PCT No.: PCT/US04/24718 :
Int. Filing Date: 30 July 2004 : DECISION
Priority Date: 01 August 2003 :
Attorney Docket No.: PENN0870US.NP :
For: Bowman-Birk Inhibitor Compositions For Treatment :
Of Muscular Atrophy And Degenerative Muscle Disease :

This is in response to the "Response to Decision" mailed on 09 October 2007.

DISCUSSION

In a Decision mailed on 28 September 2007, the declaration of inventorship filed on 09 November 2006 was not accepted, without prejudice, because "it appears to have been assembled by adding a second page 3 of 4 to the document... The declaration is also defective in view of the
un-initialed alterations to the page signed by Mr. Morris."

In response, applicants have filed a new declaration document. However, this declaration is defective because it includes an un-initialed alteration to the ZIP code portion of Ann R. Kennedy's residential address.

The Decision mailed on 28 September 2007 set a period for response as follows:

> If reconsideration on the merits of this matter is desired, a proper response must be filed within **ONE (1) MONTH** from the mail date of this decision. Extensions of time may NOT be obtained under 37 CFR 1.136(a). Failure to timely file a proper response (specifically, an acceptable oath or declaration) will result in **ABANDONMENT**.

This period for response is analogous to that which would have been set in a Notification of Defective Response (Form PCT/DO/EO/916). Since applicant did not file an acceptable oath or declaration in compliance with 37 CFR 1.497(a) and (b) within the period for response, this international application stands **ABANDONED** with respect to the national stage in the United States.

DECISION

The declaration is **NOT ACCEPTED**, without prejudice.

This international application stands **ABANDONED** with respect to the national stage in the United States.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

United States Patent and Trademark Office

13 MAY 2008

Commissioner for Patents
United States Patent and Trademark Office
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LICATA & TYRRELL P.C.
66 E. MAIN STREET
MARLTON NJ 08053

In re Application of :
Sweeney et al. :
Application No.: 10/566,796 :
PCT No.: PCT/US04/24718 :
Int. Filing Date: 30 July 2004 : DECISION
Priority Date: 01 August 2003 :
Attorney Docket No.: PENN0870US.NP :
For: Bowman-Birk Inhibitor Compositions For Treatment :
Of Muscular Atrophy And Degenerative Muscle Disease :

This is in response to the "Response to Decision" filed on 02 April 2008, which is accompanied by a declaration of the inventors.

DISCUSSION

In a Decision mailed on 31 March 2008, it was noted that

The Decision mailed on 28 September 2007 set a period for response as follows:

*If reconsideration on the merits of this matter is desired, a proper response must be filed within **ONE (1) MONTH** from the mail date of this decision. Extensions of time may NOT be obtained under 37 CFR 1.136(a). Failure to timely file a proper response (specifically, an acceptable oath or declaration) will result in **ABANDONMENT**.*

*This period for response is analogous to that which would have been set in a Notification of Defective Response (Form PCT/DO/EO/916). Since applicant did not file an acceptable oath or declaration in compliance with 37 CFR 1.497(a) and (b) within the period for response, this international application stands **ABANDONED** with respect to the national stage in the United States.*

In view of the fact that this international application stands **ABANDONED** with respect to the national stage in the United States, it would not be appropriate to address the merits of the newly filed declaration at this time.

DECISION

The declaration is **NOT ACCEPTED**, without prejudice.

This international application stands **ABANDONED** with respect to the national stage in the United States.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

19 AUG 2008

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LICATA & TYRRELL P.C.
66 E. MAIN STREET
MARLTON NJ 08053

In re Application of :
Sweeney et al. :
Application No.: 10/566,796 :
PCT No.: PCT/US04/24718 :
Int. Filing Date: 30 July 2004 : DECISION
Priority Date: 01 August 2003 :
Attorney Docket No.: PENN0870US.NP :
For: Bowman-Birk Inhibitor Compositions For Treatment :
Of Muscular Atrophy And Degenerative Muscle Disease :

The petition to revive under 37 CFR 1.137(b) filed on 19 May 2008 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 a declaration compliant with 37 CFR 1.497(a) and (b)(filed on 02 April 2008), 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. The date of the application under 35 U.S.C. 371(c)(1), (2) and (4) is **02 April 2008**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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OFFICE OF PETITIONS

NXP, B.V.
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

In Application of :
Tolle, et al. :
Application No.: 10/566,802 : ON PETITION
Filed: January 30, 2006 :
Attorney Docket No.: DE03 0258 US1 :
For: HIGH FREQUENCY CONTROL OF A :
SEMICONDUCTOR SWITCH :

This is a decision on the petition captioned, "REQUEST FOR WITHDRAWAL OF ERRONEOUSLY-ISSUED NOTICE OF ABANDONMENT," filed December 10, 2008. The petition will be treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any further request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely submit a reply within one month of the mailing of the March 20, 2008 Notification of Non-Compliant Appeal Brief (Notice). No response being received, this application became abandoned on April 21, 2008. A Notice of Abandonment was mailed on October 24, 2008.

Petitioners allege that the March 20, 2008 was not received due to Office error in mailing the correspondence to an incorrect address.

A review of the record indicates no irregularity in the mailing of the March 20, 2008 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicants at the correspondence address of record.

Petitioners request that the holding of abandonment be withdrawn because petitioners contend that the Office mailed the correspondence to an incorrect address.

Petitioners point out the fact that a request to change the correspondence address of record was filed on January 3, 2008. Petitioners argue the holding of the abandonment should be withdrawn because the Office did not enter the changes, and this resulted in the March 20, 2008 Notice being mailed to a previous address.

While a request to change the correspondence address was filed on January 3, 2008, it was **not** filed by an attorney of record. Because Eric M. Bram is not an attorney of record, he may not change the correspondence address of record. Under 37 CFR 1.33(a)(2), where an executed oath or declaration under 37 CFR 1.63 has been filed by any of the inventors, the correspondence address may be changed by (A) a patent practitioner of record, (B) an assignee as provided for under 37 CFR 3.71(b), or (C) all of the applicants (37 CFR 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 37 CFR 3.71. See 37 CFR1.33(a)(2).

The ultimate cause of the abandonment is applicants' failure to properly inform the Office of the correct correspondence address. Therefore, the petition to withdraw the holding of abandonment is dismissed.

Applicants are responsible for specifying a correct correspondence address. A delay caused by the failure to provide the Office with a current correspondence address does not constitute an unavoidable delay. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), 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).

Petitioners are strongly encouraged to file a petition to revive under the unintentional delay standard of 137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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NIXON & VANDEHRHYE P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203-1808

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OFFICE OF PETITIONS

In re Application of :
Benneker et al :
Application No. 10/566,839 : DECISION ON PETITION
Filed: February 7, 2007 :
Attorney Docket No. 4662-145 :

This is a decision on the renewed petition filed July 14, 2009, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed April 2, 2009 be withdrawn.

The petition is **GRANTED**.

Petitioners assert that, because the examiner has withdrew the final rejection, and the reason for which the aforementioned terminal disclaimer was originally proffered have not been maintained in the new office action, 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, and has found that the examiner concurs with petitioners' assertion. Accordingly, the terminal disclaimer is withdrawn. USPTO records for the above-identified application have been changed consistent with this decision.

Telephone inquiries related to this decision should be addressed to Thurman K. Page at (571) - 272-0602.

This application has been forwarded to TC1700 for further processing.

Thurman K. Page
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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In re Application of :
Saint-Remy et al. :
Application No. 10/566,851 : ON PETITION
Filed: February 1, 2006 :
Attorney Docket No. 50304/112001 :

This is a decision on the petition under 37 CFR 1.181, filed October 14, 2008.

This application became abandoned for failure to timely submit a response to the restriction requirement mailed January 25, 2008. The Notice set an extendable 1 month period for reply. A one month extension of time pursuant to 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on October 6, 2008.

The petition to withdraw the holding of abandonment is **DISMISSED AS MOOT** in light of the Technology Center's withdrawal of the Abandonment (October 22, 2008) prior to the rendering of a petition decision.

This application is being forwarded to Art Unit 1644 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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SHELDON & MARK PC
225 SOUTH LAKE AVENUE, 9TH FLOOR
PASADENA, CA 91101

7/30/07

In re Application of:
Deutsch, Harvey L.
Serial No.: 10/566,853
Filed: January 31, 2006
Docket: 15731-1US
Title: METHOD AND DEVICE FOR REMOVING AN OCCLUSION

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 (VIII)

This is a decision on the petition filed on August 10, 2006 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

In support of the petition, petitioner provides: a) the applicable fee to be charged against the deposit account provided; b) a statement that if all claims are not directed to a single invention, as determined by the Office, applicant will make an election without traverse; c) a certified copy of foreign priority application, WO 2006/071855.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) the applicable petition fee; b) all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, applicant will make an election without traverse; c) a statement that a pre-examination search was made, listing the field of search by class and subclass; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a) and (b) are considered to have been met. However, the petition does not meet the requirements of MPEP § 708.02(VIII) (c)(d) and (e).

Regarding the requirement of MPEP § 708.02(VIII)(c), the relevant portion states that the applicant must "submit statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement if the claims in the corresponding foreign application are the same or similar scope to claims in the U.S. application for which special status is requested." The present petition states that a copy of the International Search Report and the

Written Opinion issued on June 29, 2006 in the parent PCT application are enclosed. However, said documents were not included with the petition. As the petitioner has otherwise failed to provide such statements or evidence of a foreign patent office search, the petition does not meet the requirements of MPEP § 708.02(VIII)(c).

Regarding the requirement of MPEP § 708.02(VIII)(d) the relevant portion states that the applicant must "submit one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record." As a statement regarding the pre-examination search has not been submitted, it is not possible to verify if the petitioners have complied with this requirement. Petitioners should note that a copy of such references would be required upon reconsideration.

Regarding the requirement of MPEP § 708.02(VIII)(e) the relevant portion requires that "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made." Additionally, 37 CFR § 1.111 (b) does not allow for general allegations. As the petitioner has failed to provide such an explanation, the petition fails to meet the requirements of MPEP § 708.02(VIII)(e). Upon reconsideration, the petitioners must point out the specific language in each of the independent claims that distinguishes them over each reference cited.

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003).

For the above-mentioned reasons, the petition is dismissed. The application will, therefore, be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any request for reconsideration must provide: a) a statement that a pre-examination search was made, listing the field of search by class and subclass; b) one copy of each of the references deemed most closely related to the subject matter if said references are not already of record; and c) a detailed discussion of the references, which discussion points out with particularity required by 37 CFR §1.111(b) and (c) how the claimed subject matter is patentable over the references.

Henry C. Yuen
Special Programs Examiner
Technology Center 3700
Tel: 571-272-4856

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SHELDON MAK ROSE & ANDERSON
100 Corson Street
Third Floor
Pasadena, CA 91103-3842

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OFFICE OF PETITIONS

In re Application of	:	
Harvey L. Deutsch	:	
Application No. 10/566,853	:	DECISION ON PETITION
Filed: January 31, 2006	:	TO WITHDRAW
Attorney Docket No. 15731-1US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 29, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David A. Farah on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Harvey L. Deutsch**
350 Comstock Avenue
Los Angeles, CA 90024

cc: **THE CATHETER EXCHANGE, INC.**
16633 Ventura Boulevard, Suite #735
Encino, CA 91436

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
10/566,853	01/31/2006	Harvey L. Deutsch	15731-1US

CONFIRMATION NO. 1142

POWER OF ATTORNEY NOTICE

23676
SHELDON MAK ROSE & ANDERSON PC
100 Corson Street
Third Floor
PASADENA, CA 91103-3842

Date Mailed: 09/25/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/29/2009.

- 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).

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

20 NOV 2007

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04743
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, IL 60606

In re Application of :
TOWNS *et al* :
U.S. Application No.: 10/566,855 :
PCT No.: PCT/GB2004/003332 :
Int. Filing Date: 02 August 2003 : **DECISION**
Priority Date: 01 August 2003 :
Attorney Docket No.: 30698CDT445 :
For: ELECTROLUMINESCENT DEVICE :

This is a decision on the papers filed on 23 August 2007. No fee is required.

BACKGROUND

On 14 August 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/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.

On 23 August 2007, applicants submitted a declaration signed by six inventors.

On 18 September 2007, applicants submitted a Communication noting that one of the inventors, Carl R. Owens is deceased. Applicants included a Supplemental Application Data Sheet which included an updated mailing address of the legal representative of Mr. Owens. Applicants also noted that the title of the declaration filed 23 August 2007 is incorrect.

DISCUSSION

In response to the Form PCT/DO/EO/905 mailed 14 August 2007, applicants submitted a signed declaration on 23 August 2007. The title of the declaration was listed incorrectly. Regardless, the declaration sufficiently identifies the application by listing the proper international application. All inventors executed the declaration including the deceased inventor, Mr. Carl Towns.

However, the declaration is defective because it is only a composite declaration. As submitted, the declaration consists of eight pages, *i.e.*, one Page 1, four Page 2's and two Page 3's. While each inventor need not execute the same oath or declaration,

each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. By providing only a partial declaration, it is not clear what inventive entity was listed on the declaration signed by each co-inventor.

Applicants must provide a new declaration executed by all the inventors and the legal representative of Mr. Towns. The declaration must indicate that the person is a legal representative and list their citizenship, residence and mailing address. *See* 37 CFR 1.497(b)(2). The citizenship information for all the inventors (including the deceased inventor) must also be recorded on the declaration. The declaration filed 23 August 2007 cannot be perfected.

CONCLUSION

For the reason noted above, the declaration filed 23 August 2007 is not in compliance with 37 CFR 1.497(a) and (b).

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

1 3 MAR 2008

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04743
MARSHALL, GERSTEIN & BORUN, LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, IL 60606

In re Application of
TOWNS *et al*
U.S. Application No.: 10/566,855
PCT No.: PCT/GB2004/003332
Int. Filing Date: 02 August 2003
Priority Date: 01 August 2003
Attorney Docket No.: 30698CDT445
For: ELECTROLUMINESCENT DEVICE

DECISION

This decision is in response to the papers filed on 16 January 2008.

BACKGROUND

On 20 November 2007, a decision indicating that the declaration submitted on 23 August 2007 was not in compliance with 37 CFR 1.497(a) and (b) was mailed. Applicants were given two months to respond.

On 16 January 2008, applicants submitted a complete copy of the declaration previously executed after contacting the undersigned on 08 January 2008.

DISCUSSION

The original declaration filed 23 August 2007 was deemed to be a composite declaration as not all pages were submitted. Moreover, the title of the declaration was listed incorrectly. Nonetheless, the declaration sufficiently identified the subject application by listing the international application.

In the papers filed 16 January 2008, applicants have provided a complete copy of the declaration. Applicants state that "the inventors were clearly apprised of the appropriate inventive entity when executing."

This is an acceptable response.

CONCLUSION

The declaration submitted 16 January 2008 is **ACCEPTED**.

The declaration is in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 02 August 2003 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 16 January 2008.

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

23 OCT 2006

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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NICOLAS E. SECKEL
Patent Attorney
1250 Connecticut Avenue, NW Suite 700
WASHINGTON, DC 20036

In re Application of
LAEUFFER, Jacques
Application No.: 10/556,870
PCT No.: PCT/FR04/01196
Int. Filing Date: 14 May 2004
Priority Date: 16 May 2003
Attorney Docket No.: LAV05003
For: DRIVE TRAIN FOR A MOTOR VEHICLE AND CONTROL METHOD THEREOF

DECISION ON

PETITION

UNDER 37 CFR 1.182

This decision is in response to applicants' "Request For Correction Regarding U.S. Appl. Serial No. 10/556,870," filed with the United States Patent and Trademark Office on 14 July 2006. It has been treated as a petition under 37 CFR 1.182. The petition fee will be charged to deposit account no. 50-2759, as authorized.

BACKGROUND

On 15 November 2005, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The papers listed international application no. PCT/FR04/01169 and PCT/FR04/01196.

On 14 July 2006, applicants submitted a petition under 37 CFR 1.182 to correct the national stage information in the above application to indicate it is a 371 filing of PCT/FR04/01196.

DISCUSSION

Applicants have explained that the paperwork was intended as a national stage entry of PCT/FR04/01196. The indications will be corrected in the file and the file will be processed as a national stage entry of PCT/FR04/01196.

CONCLUSION

For the reasons listed above, the Petition Under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, including mailing of a Notification of Missing Requirements indicating that an oath or declaration and the surcharge for late filing of search fee, examination fee or oath or declaration are required.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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Joseph J. Laks
Thomson Licensing, LLC
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PO Box 5312
PRINCETON, NJ 08543

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OFFICE OF PETITIONS

In re Application of	:	
Tak Wing Lam, et. al.	:	
Application No. 10/566,875	:	ON PETITION
Filed: September 18, 2006	:	
Attorney Docket No. PA030018	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on October 6, 2008, to revive the above-identified application.

The application became abandoned for failure to file a proper reply to the final Office action mailed on March 17, 2008. A Notice of Abandoned was mailed October 6, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $810 filing fee; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE filed October 6, 2008.

The application file is being referred to Technology Center Art Unit 2164, for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the previously filed amendment.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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C/O Ballard Spahr LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309

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OCT 27 2009

OFFICE OF PETITIONS

In re Application of
David M. Neville, et al.
Application No. 10/566,886
Filed: February 1, 2006
Attorney Docket No. 14028.0295U2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed December 12, 2008, which set a shortened statutory period for reply of three (3) months. In view of the 2-month extension of time under the provisions of 37 CFR 1.136(a), the application became abandoned on May 13, 2009. A Notice of Abandonment was mailed on June 23, 2009. On July 23, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the additional $620 extension fee included with this petition is being refunded to counsel's credit card.

This application is being referred to Technology Center AU 1633 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