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DAY PITNEY LLP
7 TIMES SQUARE
NEW YORK, NY 10036-7311

MAILED

APR 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Yukio KINOSHITA	:	
Application No. 10/566,891	:	DECISION ON PETITION
Filed: June 9, 2008	:	TO WITHDRAW
Attorney Docket No. 005649.117222	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed March 23, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Robert L. Norton does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: YUKIO KINOSHITA
C/O MELCO JAPAN KK,
I.S. MOTOR JAPAN
950-46 TABIK
JAPAN

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NEW YORK NY 10036-7311

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Yukio KINOSHITA	:	
Application No. 10/566,891	:	DECISION ON PETITION
Filed: June 9, 2008	:	TO WITHDRAW
Attorney Docket No. 005649.117222	:	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), May 4, 2009.

The request is **APPROVED**.

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

The request was signed by John F. Gulbin on behalf of the attorneys of record associated with Customer No. 29540.

The attorneys of record associated with Customer No. 29540 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 until otherwise properly notified by the applicant.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: YUKIO KINOSHITA
C/O MELCO JAPAN K.K.,
I.S. MOTOR JAPAN, 950-46 TABIKO
HITACHINAKA-SHI, IBARAKI 312-0063
JAPAN

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/566,891	06/09/2008	Yukio Kinoshita	005649.117222

CONFIRMATION NO. 9868

POWER OF ATTORNEY NOTICE

29540
DAY PITNEY LLP
7 TIMES SQUARE
NEW YORK, NY 10036-7311

OC000000036467299

Date Mailed: 06/15/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/04/2009.

- 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.

/dcgoodwyn/

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

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VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 04/27/2010

Applicant	: Robert Keith Harman	: DECISION ON REQUEST FOR
Patent Number	: 7576648	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/566,895	: 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 **818** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/09/10

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10566926 Patent No.: 7572842

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE — 1796 Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100315

DATE : March 15, 2010

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction on Patent No.: 7,572,842

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/Randy Gulakowski/
SPE- Art Unit 1796

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The Dow Chemical Company
Intellectual Property Section
P.O. Box 1967
Midland MI 48641-1967

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JUN 0 4 2009

OFFICE OF PETITIONS

In re Application of :
Oswald et al. :
Application No. 10/566,937 : DECISION ON PETITION
Filed: 02/02/2006 :
Attorney Docket No. 62781A :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed January 13, 2009, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment mailed May 23, 2008, which set period of one month or thirty days, whichever was longer, to respond. In the absence of a timely filed reply, the application became abandoned on June 24, 2008. On December 4, 2008, the Office mailed a Notice of Abandonment.

Petitioner asserts that the Notice of Non-Compliant Amendment mailed May 23, 2008, was not received.

A review of the written record indicates no irregularity in the mailing of the Notice of Non-Compliant Amendment and in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice of Non-Compliant Amendment was not in fact received.

As stated in Section 711.03(c)(I)(A) of the Manual for Patent Examining Procedure:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was

never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner submitted a copy of the master docket showing all replies docketed for a date one month from the mail date of the nonreceived Notice. The practitioner stated the Notice of Non-Compliant Amendment would have been entered in this docketing system had it been received and docketed. The practitioner attested to the fact that a search of the records indicated that the

Notice of Non-Compliant Amendment was not received. Accordingly, petitioner presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. The holding of abandonment is hereby withdrawn.

This matter is being referred to Technology Center Art Unit 1796 for further action on the reply submitted with the petition.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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17 AUG 2006

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

In re Application of	:	
YANG, Shen-Yu	:	
Application No.: 10/566,940	:	DECISION
PCT No.: PCT/US04/16431	:	
Int. Filing Date: 21 May 2004	:	ON PETITION UNDER
Priority Date: 27 May 2003	:	
Docket No.: CL2064USPCT	:	37 CFR 1.137(b)
For: FUEL CELL MEMBRANE CONTAINING	:	
ZIRCONIUM PHOSPHATE	:	

Applicants' "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 01 February 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 furnishing of the search fee, examination fee or oath or declaration will be charged to deposit account no. 04-1928, 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 13 February 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

10 MAY 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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Marshall, Gerstein & Borun LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, IL 60606

In re Application of	:	
GUO et al.	:	
Application No.: 10/566,952	:	
PCT No.: PCT/CN04/00884	:	
Int. Filing: 30 July 2004	:	DECISION ON PETITION
Priority Date: 31 July 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No.: 30952/41850	:	
For: METHOD OF IMPLEMENTING ACCOUNT CHARGING AND ACCOUNT CHARGING SYSTEM	:	

This decision is issued in response to applicants' "Petition under 37 CFR 1.47(a)" filed 22 January 2007 to accept the application without the signature of joint inventor, Xin Zhang. The $200 petition fee has been submitted.

BACKGROUND

On 30 July 2004, applicants filed international application PCT/CN04/00884 which claimed a priority date 31 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, 31 January 2006.

On 31 January 2006, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; preliminary amendment; and an application data sheet.

On 20 June 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 22 January 2007, applicants filed a petition under 37 CFR 1.47(a) and an oath/declaration executed by four of the five inventors.

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 (Xin Zhang) could not be located after diligent effort, stated the last known address of the non-signing inventor (Xin Zhang), and provided an acceptable declaration. Accordingly, all of the requirements of items (1), (2), (3), and (4) above have been satisfied..

CONCLUSION

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

The application has an international filing date of 30 July 2004 under 35 U.S.C. 363, and will be given a date of 22 January 2007 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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

1 0 MAY 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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Xin Zhang
Huawei Administration Building
Bantian, Longgang District
Shenzhen
People's Republic of China
518129

In re Application of
GUO et al.
Application No.: 10/566,952
PCT No.: PCT/CN04/00884
Int. Filing: 30 July 2004
Priority Date: 31 July 2003
Attorney Docket No.: 30952/41850
For: METHOD OF IMPLEMENTING ACCOUNT CHARGING AND ACCOUNT CHARGING SYSTEM

Dear Xin Zhang:

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

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

Anthony Smith

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

Counsel of Record:
Marshall, Gerstein & Borun LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, IL 60606

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P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

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DEC 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Rolf Theo Anton Apetz	:	
Application No. 10/566,963	:	DECISION ON PETITION
Filed: January 26, 2006	:	
Attorney Docket No. DE030261	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 1, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on February 2, 2007. A Notice of Abandonment was mailed on May 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of November 1, 2006 is 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 Technology Center AU 1746 for appropriate action in the normal course of business on the reply received May 22, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

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22 JUL 2008

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02292
BIRCH STEWART KOLASCH & BIRCH
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of
MYLLYMAKI *et al*
Application No.: 10/566,975
PCT No.: PCT/FI2004/000523
Int. Filing Date: 10 September 2004
Priority Date: 09 September 2003
Attorney Docket No.: 0696-0229PUS1
For: STARCH ESTERIFICATION METHOD

DECISION

The "Request for Corrected Notice of Acceptance" filed on 29 January 2007 are treated as a petition under 37 CFR 1.181 and hereby **GRANTED** as follows:

The Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) mailed 20 December 2006 recorded the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements as 07 December 2006. The filing receipt also indicated a "Filing or 371(c) Date" of 07 December 2006.

However, a review of the application shows that a declaration in compliance with 37 CFR 1.497(a) and (b) was provided on 16 November 2006, not 07 December 2006.

As such, the Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) and filing receipt mailed 20 December 2006 both contain erroneous information and are hereby **VACATED**.

This application is being forwarded to the DO/EO/US to mail a corrected Form PCT/DO/EO/903 and filing receipt indicating the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and "Filing or 371(c) Date" of 16 November 2006.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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15 FEB 2008

Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York NY 10036

In re Application of TRIBELSKY et al.	:
Application No.: 10/566,983	: DECISION ON PETITION
PCT No.: PCT/IL04/00718	:
Int. Filing: 04 August 2004	: UNDER 37 CFR 1.47(a)
Priority Date: 04 August 2003	:
Attorney Docket No.: P-7784-US	:
For: METHOD FOR ENERGY COUPLING ESPECIALLY USEFUL FOR DISINFECTING AND VARIOUS SYSTEMS USING IT	:

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 19 November 2007, to accept the application without the signatures of joint inventor ZAMIR TRIBELSKY.

BACKGROUND

On 02 February 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 19 July 2007, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 19 November 2007, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a), in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), requested the acceptance of the application without the signature of inventor ZAMIR TRIBELSKY, alleging that Mr TRIBELSKY refused to sign the application and is now unavailable.

DISCUSSION

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

The petition included the requisite petition fee, satisfying Item (1). Item (3) is satisfied because the last known address of non-signing inventor was provided.

With regard to item (4), the declarations executed by the available joint inventors on their behalf and on behalf of the non-signing inventor were submitted. Item (4) is satisfied.

Inventor's Refusal to Sign

With respect to Item (2) above, the declaration by Amir Cohen, Chief Financial Officer of Atlantium Technologies, Ltd. was attached to the petition, detailing the efforts made to obtain the nonsigning inventor's signature. Mr. Cohen detailed several attempts to contact the nonsigning inventor via his attorney. According to the declaration, the attorney for the nonsigning inventor indicated that Mr. Tribelsky "might consider signing the documents if he were to receive payment." On 10 December 2006, a further communication to the nonsigning inventor's attorney was sent along with documentation relating to the employer/employee agreements.

Thereafter, on 2 September 2007, Mr. Cohen "sent via registered mail a package containing a copy of the above-identified application, including preliminary amendment and a declaration and power of attorney to ZAMIR TRIBELSKY's last known address...". The package was returned as unclaimed. On 14 October 2007, Mr. Cohen made an attempt to deliver the documents to the nonsigning inventor's last known address via a postal messenger without success, indicating that Mr. Tribelsky no longer resided at the address. Thereafter, Petitioner did not show how he attempted to locate the nonsigning inventor.

The fact that the papers were returned as "undeliverable" cannot be construed as a refusal to sign. It may be that the nonsigning inventor was at work, out of town or in the hospital when the attempt to deliver the papers was made or that he has since moved from the last known address. See Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal. [1]

Unavailability of Inventor

With respect to counsel's inability to find or reach Mr. Tribelsky, Petitioner does not demonstrate what "diligent efforts" were undertaken by Petitioner to locate Mr. Tribelsky and obtain his signature on the declaration, stating that the application papers were sent to Mr. Tribelsky and were returned by the postal service/messenger as undeliverable.

As indicated in the MPEP Section 409.03(d), where inability to find or reach a

---

[1] A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the 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.)

nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

Here, diligent efforts made to locate Mr. Tribelsky were not pursued and documented, such as Internet searches, contact with the joint inventors to obtain Mr. Tribelsky's current address, a forwarding address or current email address and/or current employer. No attempt to reach Mr. Tribelsky's by telephone or further contact with his attorney was made. No request from the Postal Service for his forwarding address was made. Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a "diligent effort" was made. Petitioner's statement of facts under 37 CFR 1.47(a) does not indicate that any search for Mr. Tribelsky's new address was made. Since no attempts to locate inventor Tribelsky were documented, it can not be concluded that "a diligent effort" was made to locate the non-signing inventor.

The action taken by petitioner is not sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor. Under these circumstances, it cannot be concluded that Mr. Tribelsky is unavailable to sign the application.

In sum, Petitioner has satisfied Items (1), (3) and (4).

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 10/566,983 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature and Mr. Tribelsky's refusal to sign, either in writing or by telephone, these documents or (2) a first hand statement of the " diligent efforts" made to contact the nonsigning inventor Tribelsky. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

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

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor

PCT Legal Office
Office of PCT Legal Administration

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

0 5 SEP 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York NY 10036

In re Application of TRIBELSKY et al.	:
Application No.: 10/566,983	: DECISION ON PETITION
PCT No.: PCT/IL04/00718	:
Int. Filing: 04 August 2004	: UNDER 37 CFR 1.47(a)
Priority Date: 04 August 2003	:
Attorney Docket No.: P-7784-US	:
For: METHOD FOR ENERGY COUPLING	:
ESPECIALLY USEFUL FOR DISINFECTING	:
AND VARIOUS SYSTEMS USING IT	

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 14 August 2008, to accept the application without the signature of joint inventor ZAMIR TRIBELSKY. Petitioner requests a four month extension of time, which is granted.

BACKGROUND

On 02 February 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 19 July 2007, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 19 November 2007, applicant filed a petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a), in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), requested the acceptance of the application without the signature of inventor ZAMIR TRIBELSKY, alleging that Mr. TRIBELSKY refused to sign the application.

On 15 February 2008, a decision dismissing the petition was mailed to applicant. On 14 August 2008, Petitioner filed a renewed petition along with a request for a four 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(g), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-

signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Items (1), (3) and (4) were previously satisfied.

With respect to Item (2) above, the 29 July 2008 declaration of Amir Cohen, Chief Financial Officer of Atlantium Technologies, Ltd. was attached to the petition, detailing the efforts made to obtain the nonsigning inventor's signature. According to the declaration, Mr. Cohen met with Mr. Tribelsky on 19 July 2008. Mr. Tribelsky admitted that he received the documents, including the declaration for this application. Mr. Tribelsky stated that "the amount of the payment he had previously agreed upon is not acceptable to him and that he expects a much higher amount." Furthermore, Mr. Tribelsky refused to sign any documents, including the declaration for the present application.

The action taken by petitioner is sufficient to prove that Mr. Tribelsky refused to sign the application papers. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 19 November 2007. The application has an international filing date of 04 August 2004 under 35 U.S.C. 363, and a date of 19 November 2007 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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

05 SEP 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ZAMIR TRIBELSKY
64 HaDror Street
MEVASERET-TZION
ISRAEL 90805

In re Application of TRIBELSKY et al.	:
Application No.: 10/566,983	: DECISION ON PETITION
PCT No.: PCT/IL04/00718	:
Int. Filing: 04 August 2004	: UNDER 37 CFR 1.47(a)
Priority Date: 04 August 2003	:
Attorney Docket No.: P-7784-US	:
For: METHOD FOR ENERGY COUPLING	:
ESPECIALLY USEFUL FOR DISINFECTING	:
AND VARIOUS SYSTEMS USING IT	

Dear Mr. Tribelsky:

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

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272 -3286

Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York NY 10036

2 3 FEB 2007

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

Pearl Cohen Zedek Latzer, LLP
1500 Broadway, 12th Floor
New York, NY 10036

In re Application of	:	
TRIBELSKY et al.	:	
U.S. Application No. 10/566,992	:	
PCT No.: PCT/IL04/00717	:	DECISION ON REQUEST
Int. Filing Date: 04 August 2004	:	
Priority Date: 04 August 2003	:	
Attorney Docket No.: P7785US	:	
For: IN-LINE TREATMENT OF LIQUIDS AND GASES BY LIGHT IRADIATION		

This decision is issued in response to applicant's "Petition to add Inventors under 37 CFR 1.48(a)" filed 04 January 2007 which is being treated as a Request under 37 CFR 1.497(d). Additionally, this decision is issued in response to applicant's "Petition under 37 CFR 1.47(a)" filed 04 January 2007.

BACKGROUND

On 04 August 2004, applicant filed international application no. PCT/IL04/00717 which claimed a priority date of 04 August 2003. The international application named Zamir Tribelsky as an applicant/inventor. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 04 February 2006.

On 02 February 2006, applicant filed a transmittal letter for entry into the national stage accompanied by, *inter alia*: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 09 August 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 04 January 2007, applicant filed a request under 37 CFR 1.497(d) which included a declaration executed by: Ytzhak Rozenberg; Uri Levy; and Joseph Rabani. Additionally, applicant submitted a petition under 37 CFR 1.47(a) to accept the application without the signature of inventor, Zamir Tribelsky.

DISCUSSION

Request under 37 CFR 1.497(d)

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

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

Applicant has satisfied items (1), (2) and (4).

Applicant has not satisfied item (3). Applicant states in the present request that "the consent of the assignee is not required insofar as no assignment has yet been executed." In order to satisfy item (3), applicant is required to submit a written consent of assignee to the correction in inventorship in compliance with 37 CFR 3.73(b), or written confirmation that no assignee exists. Since applicant affirms that an assignee exists, a written consent in compliance with 37 CFR 3.73 is required.

Because applicant has not satisfied all the requirements of 37 CFR 1.497(d), inventors Ytzhak Rozenberg; Uri Levy; and Joseph Rabani cannot be added to the application at the present time.

Petition under 37 CFR 1.47(a)

Applicant's petition under 37 CFR 1.47(a) is being held in abeyance until a grantable request under 37 CFR 1.497(d) has been filed. (It is noted that applicant has not submitted a clear statement of the nonsigning inventors' last known home address. See MPEP §605.03)

CONCLUSION

Applicant's request to add inventors Ytzhak Rozenberg; Uri Levy; and Joseph Rabani under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

The petition under 37 CFR 1.47(a) is held in abeyance.

Applicant must file a proper response to this decision within **TWO (2) MONTHS** from the mail date indicated above. A proper response must include a declaration in compliance with 37 CFR 1.497(a)-(b). Failure to file a timely and proper response will result in abandonment of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

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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27 JUL 2007

Pearl Cohen Zedek Latzer, LLP
1500 Broadway, 12th Floor
New York, NY 10036

In re Application of	:	
TRIBELSKY et al.	:	
U.S. Application No. 10/566,992	:	
PCT No.: PCT/IL04/00717	:	DECISION ON REQUEST
Int. Filing Date: 04 August 2004	:	
Priority Date: 04 August 2003	:	
Attorney Docket No.: P7785US	:	
For: IN-LINE TREATMENT OF LIQUIDS AND GASES BY LIGHT IRADIATION		

This decision is issued in response to applicant's "Renewed Petition to add Inventors under 37 CFR 1.497(d) and to Suspend the Rules under 37 CFR 1.183" filed 23 April 2007 which is being treated as a Request under 37 CFR 1.497(d). Additionally, this decision is issued in response to applicant's "Petition under 37 CFR 1.47(a)" filed 23 April 2007.

BACKGROUND

On 04 August 2004, applicant filed international application no. PCT/IL04/00717 which claimed a priority date of 04 August 2003. The international application named Zamir Tribelsky as an applicant/inventor. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 04 February 2006.

On 02 February 2006, applicant filed a transmittal letter for entry into the national stage accompanied by, *inter alia*: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 09 August 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 04 January 2007, applicant filed a request under 37 CFR 1.497(d) which included a declaration executed by: Ytzhak Rozenberg; Uri Levy; and Joseph Rabani. Additionally, applicant submitted a petition under 37 CFR 1.47(a) to accept the application without the signature of inventor, Zamir Tribelsky. In a decision dated 04 January 2007, applicant's request under 37 CFR 1.497(d) was dismissed without prejudice.

On 23 April 2007, applicant filed "Renewed Petition to add Inventors under 37 CFR 1.497(d) and to Suspend the Rules under 37 CFR 1.183."

DISCUSSION

Request under 37 CFR 1.497(d)

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

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

Items (1), (2) and (4) were previously satisfied.

As to item (3), the submission included the consent of the assignee to the requested correct of inventorship, in the form required under 37 CFR 1.497(d)(3) and 37 CFR 3.73. Accordingly, applicant has now satisfied all the requirements to correct the inventorship herein.

Applicant's request to correct inventorship under 37 CFR 1.497(d) is **GRANTED**.

The inventorship herein is corrected to add Ytzhak Rozenberg; Uri Levy; and Joseph Rabani as additional inventors of record. Based on this correction, the declaration filed 04 January 2007 is now acceptable under 37 CFR 1.497.

Petition under 37 CFR 1.47(a)

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

Applicant here has submitted the appropriate petition fee. Item (1) is therefore satisfied.

Regarding item (2), applicant has provided the last known address of the nonsigning inventor. Accordingly, item (2) is therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by three of the four inventors and including an unsigned signature box identifying the nonsigning inventor. This declaration is treated as having been executed by the available inventors on their own behalf and on behalf of the nonsigning inventor. Item (3) is therefore satisfied.

Regarding item (4), 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."

A review of the present petition reveals that applicants have satisfied item (4), 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 Zamir Tribelsky. The steps taken by Amir Cohen are sufficient to show that Zamir Tribelsky has refused to execute the application. Item (4) is therefore satisfied.

Based on the above, applicant has satisfied all the requirements for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

Applicant's request to add inventors Ytzhak Rozenberg; Uri Levy; and Joseph Rabani under 37 CFR 1.497(d) is **GRANTED**.

Applicant's request under 37 CFR 1.47(a) is **GRANTED**.

Applicant's petition under 37 CFR 1.183 is **DISMISSED** as moot.

A review of the application papers reveals that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 04 August 2004 and a date of 04 January 2007 under 35 U.S.C. 371.

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

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

Anthony Smith

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

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

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

In re Patent No. 7,588,117
Issued: September 15, 2009
Application No. 10/566,996
Filed: February 2, 2006
Attorney Docket No. 040302-0541

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705, filed on November 9, 2009, requesting that the patent term adjustment be corrected from 618 to 843 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 adjusted by eight hundred forty-three (843) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred forty-three (843)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,588,117 B2

DATED : September 15, 2009

INVENTOR(S) : Takuya Fukuda

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 (618) days

Delete the phrase "by 618 days" and insert – by 843 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 – 6TH STREET, NW
WASHINGTON DC 20001

COPY MAILED

APR 28 2009

OFFICE OF PETITIONS

In re Application of	:	
David Bruce Ogle	:	DECISION ON PETITION
Application No. 10/567,019	:	TO WITHDRAW
Filed: December 30, 2008	:	FROM RECORD
Attorney Docket No. LIFT-054/00US	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 30, 2009.

The request is **NOT APPROVED**.

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.*

Further, a review of current USPTO records does not list any recorded assignment concerning the above-identified application.

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 Joan Olszewski at 571-272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

MAILED

SEP 10 2009

OFFICE OF PETITIONS

In re Application of Yixin Wang, et al. Application No. 10/567,025 Filed: August 16, 2006 Attorney Docket No. DX5006USPCT	: : : : :	ON PETITION

This is a decision in response to the petition, filed June 26, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed April 23, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A Notice of Abandonment was mailed on November 25, 2008. In response, on June 26, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an amendment and election of the invention to be examined; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application is being referred to Technology Center AU 1634 for consideration of the response filed June 26, 2009.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

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OCT 1 6 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Robbert Adrianus Maria Van Hal et al.	:	
Application No. 10/567,040	:	
Filed: February 2, 2006	:	
Attorney Docket No. NL030940	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 25, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely pay the issue and publication fees on or before February 1, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed November 1, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 2, 2008.

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

While the revival of applications abandoned for failure to timely prosecute and for failure to timely pay the issue fee are incorporated together in 37 CFR 1.137, the statutory provisions for the revival of an application abandoned for failure to timely prosecute and for failure to timely submit the issue fee are mutually exclusive. *See Brenner v. Ebbert*, 398 F.2d 762, 157 USPQ 609 (D.C. Cir. 1968). 35 U.S.C. 151 authorizes the acceptance of a delayed payment of the issue fee, if the issue fee "is submitted ... and the delay in payment is shown to have been unavoidable." 35 U.S.C. 41(a)(7) likewise authorizes the acceptance of an "unintentionally delayed payment of the fee for issuing each patent." Thus, 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. Therefore, the filing of a continuing application without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to pay the issue fee or any portion thereof. The Notice of Allowance requires the timely payment of the issue fee in effect on the date of its mailing to avoid abandonment of the application. In instances in which there is an increase in the issue fee by the time of payment of the issue fee required in the Notice of Allowance, the Office will mail a notice requiring payment of the balance of the issue fee then in effect. *See In re Mills*, 12 USPQ2d 1847, 1848 (Comm'r Pat. 1989). The phrase "for failure to pay the issue fee or any portion thereof" applies to those instances in which the applicant fails to pay either the issue fee required in the Notice of Allowance or the balance of the issue fee required in a subsequent notice. In such instances, the reply must be the issue fee then in effect, if no portion of the issue fee was previously submitted, or any outstanding balance of the issue fee then in effect, if a portion of the issue fee was previously submitted. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. Even if an application abandoned for failure to pay the publication fee is being revived solely for purposes of continuity with a continuing application, the petition to revive under 37 CFR 1.137 must include payment of the publication 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

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

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Application No: 10/564,040 Date: 10/9/08

CHECKLIST - PETITION TO REVIVE (UNINTENTIONAL) 37 CFR 1.137(b)

Petition under 37 CFR 1.137(b) requires:

1. Petition fee;
2. Reply and/or issue fee;
3. Terminal disclaimer with disclaimer fee - utility and plant filed before 6/8/95 and all design cases;
4. Statement that the entire delay was unintentional.

Petition Date: 6/25/08

Petition Fee: ( ) $770/SM (✓) $1540/LG ( ) Not Paid

Is statement of unintentional delay present? (✓)YES ( )NO (Can statement be construed as unintentional?)

Is petition signed by attorney of record? (✓)YES ( )NO Petition address the same as address in palm. (✓)YES ( )NO

Mail Date of Office Action: 11/1/07

Type of Office Action: Notice of Allowance

Statutory Response Period Set: ( ) 30 days ( ) 1 month ( ) 2 months (✓) 3 months

Ext of time obtained w/in SSP: ( )None ( )1 month ( )2 months ( )3 months ( )4 months

Abandonment Date: 2/2/08

Type of reply received: RCE

Terminal Disclaimer required: ( )YES (✓)NO (utility applications filed after 6/8/95 or before 5/29/00 and all design applications)

Petition Decision Codes

502 - 37 CFR 1.137(b) Revival based on unintentional delay in abandon application
510 - 37 CFR 1.137(b) Revival to accept late payment of issue fee (unintentional)

502

Fee Codes

1453/2453 *$1540/$770* *502/510 Petitions*

Paralegal: JoAnne (✓)Dismissed ( )Granted

MAG:01/07

PTO/SB/64 (11-07)
Approved for use through 11/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) NL030940

First named inventor: ROBBERT A. M. VAN HAL

Application No.: 10/567,040 Art Unit: 3735

Filed: FEBRUARY 2, 2006 Examiner: AHMED M. FARAH

Title: DEVICE FOR SHORTENING HAIRS BY MEANS OF LASER INDUCED OPTICAL BREAKDOWN EFFECTS

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☑ Other than small entity – fee $ 1540.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of RCE/IDS (identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 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: Mail Stop Petition, 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.

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.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Paul Im/	JUNE 25, 2008
Signature	Date
PAUL IM	50,418
Typed or printed name	Registration Number, if applicable
	914-333-96
Address	Telephone Number
Address	

Enclosures:
☑ Fee Payment
☑ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☑ Other: RCE/IDS

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

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.

Attorney/Agent Information for 10/567040

Customer # 24737

Attorney/Agent Name	Attorney/Agent Registration Number	Attorney/Agent Telephone Number
SLOBOD, JACK	26236 (Attorney)	(914)333-9606
KRAUS, ROBERT	26358 (Attorney)	(914)333-9634
BIREN, STEVEN	26531 (Attorney)	(914)333-9630
HAKEN, JACK	26902 (Attorney)	(914)333-9650
GOODMAN, EDWARD	28613 (Attorney)	(914)333-9611
YORKS, W	28923 (Attorney)	(425)487-7152
REHBERG, JOHN	29207 (Attorney)	(610)395-8042
BLOCKER, EDWARD	30245 (Attorney)	(914)333-9660
MARION, MICHAEL	32266 (Attorney)	(914)333-9641
WIEGHAUS, BRIAN	32603 (Attorney)	(914)333-9633
BELK, MICHAEL	33357 (Attorney)	(914)333-9643
VESELI, RALPH	33807 (Attorney)	(408)867-2107
FORTIN, KEVIN	35140 (Attorney)	(650)996-9693
HAAS, MICHAEL	35174 (Attorney)	(724)387-5026
BRAM, ERIC	37285 (Attorney)	(914)333-9635
CHO, KENNETH	37595 (Attorney)	(212)584-2190
LIBERCHUK, LARRY	40352 (Attorney)	(914)333-9600
KRAUSE-POLSTORFF, JUERGEN	41127 (Attorney)	(408)474-9062
PIOTROWSKI, DANIEL	42079 (Attorney)	(908)903-6218
PIOTROWSKI, DANIEL	42079 (Attorney)	(914)333-9624
PIOTROWSKI, TONY	42080 (Attorney)	(688)250-21
HOLMBO, TODD	42665 (Attorney)	(973)660-4414
ASHER, KATHLEEN	43194 (Attorney)	(857)413-6113
ECKER, KEVIN	43600 (Attorney)	(212)806-6471
COLDREN, RICHARD	44084 (Attorney)	(724)387-4455
NATHAN, TIMOTHY	44256 (Attorney)	(724)387-4435
BARNES, DAVID	47407 (Attorney)	(914)333-9693
CORDEIRO, DAVID	48134 (Attorney)	(408)474-9057
LUNDIN, THOMAS	48979 (Attorney)	(440)483-4281
KEEGAN, FRANK	50145 (Attorney)	(914)333-9669
IM, PAUL	50418 (Attorney)	(914)333-9627

MCKNIGHT, DOUGLAS	50447 (Attorney)	(216)622-8200
BELOBORODOV, MARK	50773 (Attorney)	(781)418-9363
GLICKBERG, YAN	51742 (Attorney)	(914)333-9618

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Attorney Docket # [ ] Search

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Correspondence Address for 10/567040

Customer Number	Contact Information	Address
24737 Delivery Mode: Paper	Telephone: (914)332-0222 Fax: (914)332-0615 E-Mail: No E-Mail Address	PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR NY 10510

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RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10567040 Total Records Found: 11

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
06/26/2008	00002070	4	1453	$1,540.00	06/25/2008	DA 141270
06/26/2008	00002071	4	1801	$810.00	06/25/2008	DA 141270
06/26/2008	00002072	4	1806	$180.00	06/25/2008	DA 141270
01/29/2008	00005047	4	1801	$810.00	01/28/2008	DA 141270
10/12/2007	00000003	1	1801	$810.00	10/10/2007	DA 141270
08/09/2007	00004686	4	1401	$500.00	08/08/2007	DA 141270
03/21/2007	00000163	1	1801	$790.00	03/20/2007	DA 141270
02/08/2006	00000098	1	1631	$300.00	02/02/2006	DA 141270
02/08/2006	00000099	1	1633	$200.00	02/02/2006	DA 141270
02/08/2006	00000100	1	1642	$400.00	02/02/2006	DA 141270
02/08/2006	00000101	1	8021	$40.00	02/02/2006	DA 141270

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P.O. BOX 3001
BRIARCLIFF MANOR NYH 10510

RECEIVED
DEC 22 2008
OFFICE OF PETITIONS

In re Application of	:	
Van Hal et al	:	
Application No. 10/567,040	:	DECISION GRANTING PETITIONS
Filed: February 2, 2006	:	UNDER 37 CFR 1.137(b) AND
Attorney Docket No. NL030940	:	37 CFR 1.313(c)(2)

This is a decision on the petitions, filed December 16, 2008, under 37 CFR 1.137(b), to revive the above-identified unintentionally abandoned application and on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue.

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.137(b):

This application became abandoned for failure to timely pay the issue and publication fees on or before February 1, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed November 1, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has submitted (1) payment of the $1,510 issue fee and the $300 publication fee, (2) the petition fee of $1,540, and (3) an adequate statement of unintentional delay. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition. Accordingly, the reply to the Notice of November 1, 2007 is accepted as having been unintentionally delayed.

As to the petition under 37 CFR 1.313(c)(2):

Petitioner requests withdrawal of this application from issue for consideration of a submission under 37 CFR 1.114.

The petition satisfies the requirements of 37 CFR 1.313(c)(2). Accordingly, this application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (RCE).

Petitioner is advised that the issue fee paid in this application 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]

Since the above petition under 37 CFR 1.137(b) is a renewed petition, the petition fee submitted on December 16, 2008, can be refunded by writing to the Office of Finance Refund Section. A copy of this decision should accompany the request.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3735 for processing the RCE and for consideration of the Information Disclosure Statement submitted on December 16, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of :
BEAZLEY, TODD MARTIN :
Application No.: 10/567050 : DECISION ON
Filing or 371(c) Date: February 2, 2006 : PETITION Attorney Docket Number:
PUO30191 :

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed March 5, 2010.

This petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed October 6, 2009.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1499.

Kendrick Spruill
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT and TRADEMARK OFFICE

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

24 OCT 2007

David W. Highet
Becton, Dickinson, and Company
1 Becton Drive, Mail Code 110
Franklin Lakes, New Jersey 07417-1880

In re Application of	:	DECISION ON
CINDRICH et al	:	
PCT No.: PCT/US2004/026109	:	
Application No: 10/567,051	:	
Int. Filing Date: 12 August 2004	:	PETITION UNDER
Priority Date: 12 August 2003	:	
Attorney's Docket No.: P-6244/C	:	
For: PATCH-LIKE INFUSION DEVICE	:	37 CFR 1.47(a)

This is in response to the "PETITION UNDER 37 CFR 1.47(a) and Statements of Facts" filed on 29 January 2007. The petition fee has been paid.

BACKGROUND

On 12 August 2004, applicants filed international application PCT/US04/026109, which claimed priority of an earlier application filed 12 August 2003.

On 02 February 2006, applicants filed for entry into the national stage in the United States of America. Filed with the application was, *inter alia*, the requisite basic national fee. No executed oath or declaration from the inventors accompanied the application at such time.

On 27 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date" must be submitted within two (2) months from the date of this notice or by 32 months from the priority date for the application, whichever is later, in order to avoid abandonment of the national stage application.

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 requirements (1), and (3)– (4) of 37 CFR 1.47(a). However, requirement (2) of 37 CFR 1.47(a) has not been satisfied.

Regarding requirement (1), petitioner has provided the petition fee of $200 under 37 CFR 1.17(g).

Regarding requirement (2), Mr. West's declaration has sufficiently demonstrated that a copy of the application papers were mailed to the non-signing inventor, Glade HOWELL, and a copy of the cover letter and tracking number have been provided. However, it appears that Mr. West is not the person who performed those actions listed in the petition, and has first hand knowledge of those facts as required by MPEP Section 409.03(d) since the letter and mailing appear to have been done by Ursula M. Polignone. If Mr. West 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, page 2, by persons who have first-hand knowledge of such facts.

Regarding requirement (3), petitioner has provided a statement of the last known address of the missing inventor.

Regarding requirement (4), petitioner has provided a provided a properly executed declaration.

Consequently, at this time it can not be concluded that Mr. Howell has refused to sign the documents.

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

DECISION

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

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

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

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

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

16 JAN 2008

David W. Highet
Becton, Dickinson, and Company
1 Becton Drive, Mail Code 110
Franklin Lakes, New Jersey 07417-1880

In re Application of	:	DECISION ON RENEWED
CINDRICH et al	:	
PCT No.: PCT/US2004/026109	:	
Application No: 10/567,051	:	
Int. Filing Date: 12 August 2004	:	PETITION UNDER
Priority Date: 12 August 2003	:	
Attorney's Docket No.: P-6244/C	:	
For: PATCH-LIKE INFUSION DEVICE	:	37 CFR 1.47(a)

This is in response to the "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed on 21 December 2007. The petition fee has been paid.

BACKGROUND

In a decision from this Office on 24 October 2007, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated that item (2) had not been satisfied.

On 21 December 2007, petitioner submitted a "Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 24 October 2007 with respect to accepting the above application without the signature of Mr. Howell.

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.

The renewed petition of 21 December 2007 has satisfied item (2) under 37 CFR 1.47(a).

Regarding item (2), a statement by Ursula M. Polignone, who has first-hand knowledge of the facts of the previous petition, has providing a statement outlining the steps she took to mail the application papers to the non-signing inventor Glade HOWELL on November 17, 2006.

Consequently, at this time it can be concluded that Mr. Howell has refused to sign the documents.

Petitioner has now satisfied item (2) under 37 CFR 1.47(a), thus completing the requirements under 37 CFR 1.47(a).

CONCLUSION

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

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **29 January 2007.**

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

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JUN 0 6 2008

In re Application of	:	
Michiel Jos Van Duuren	:	
Application No.: 10/567070	:	ON PETITION
Filing or 371(c) Date: 02/03/2006	:	
Attorney Docket Number:	:	
NL03 0977 US1	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed November 20, 2007.

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed March 8, 2007. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on June 9, 2007. A Notice of Abandonment was mailed October 18, 2007.

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

The address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being referred to Technology Center Art Unit 2827 for processing of the Amendment/reply filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

CC: CRAWFORD MAUNU PLLC
1270 NORTHLAND DRIVE, SUITE 390
ST. PAUL, MN 55120

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.
10/567,077	02/03/2006	Frank Theobald	5121002053	2323

7590 01/07/2009

William F Lawrence
Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

EXAMINER
WESTERBERG, NISSA M

ART UNIT	PAPER NUMBER
1618	

MAIL DATE	DELIVERY MODE
01/07/2009	PAPER

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

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 07 2008

Howard C. Lee
FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

In re Application of	:	
THEOBALD et al.	:	
Serial No.: 10/567,077	:	Decision on Petition
Filed: February 3, 2006	:	
Attorney Docket No.: 512100-2053	:	

This letter is in response to the letter filed on September 29, 2008 requesting reconsideration of the finality of the restriction requirement. It is presumed that the Petition from requirement for restriction was made under 37 C.F.R. 1.144 and has been treated as such.

BACKGROUND

This application was filed as a national stage application under 35 USC 371 of PCT/EP04/08221 and as such, is eligible for unity of invention practice.

On February 20, 2008, the examiner mailed to the applicant a restriction requirement requiring two separate election of species requirements. The first requirement requested applicant to elect between the supporting layer of a covering file which is or which is not comprised of organic polymer. The second requirement requested applicant to elect between an ormocer layer that is applied to one or to both surfaces of the supporting layer.

On April 3, 2008, applicant elected the situation where the supporting layer is composed of at least one organic polymer layer for the first election requirement and the situation where the at least one ormocer layer is applied on both sides of the supporting layer (see claim 8) with traverse. The response argued that the PCT was not subjected to an election of species requirement and there has been no showing that the combination of elements does not represent a single general concept.

On May 28, 2008, the examiner mailed to applicant a non-final Office action in which the examiner stated that the applicant did not point out the supposed errors in the restriction requirement. The election of treated as an election without traverse and the examiner made the lack of unity requirement Final. Claim 7 was withdrawn from consideration as being directed to

the non-elected species. Generic claims 1-6, 9 and 10 were examined along with claim 8, directed to the elected species. The claims were rejected under 35 U.S.C. 112, 2nd paragraph and 35 U.S.C. 103.

On September 29, 2008, applicants filed this petition to request that the Office reconsider the finality of the restriction requirement, responded to the outstanding rejections and filed amendments to the claims.

DISCUSSION

The petition and file history have been carefully considered.

The two election of species requirements have been separately reconsidered.

The first requirement requested applicant to elect between the supporting layer of a covering file which is or which is not comprised of organic polymer. Upon review, independent Claim 1 requires a covering film composed of at least one supporting layer which is composed of at least one organic polymer. The independent claim and all dependent claims appear to require at least one organic polymer. Thus, the first requirement to elect a species supporting layer of a covering file which is or which is not comprised of organic polymer is improper and withdrawn. The remainder of this decision will focus on the second election of species requirement.

The second requirement requested applicant to elect between an ormocer layer that is applied to one or to both surfaces of the supporting layer. Applicant elected that the at least one ormocer layer is applied on both sides of the supporting layer. This election reads upon the species of claim 8 below, and is encompassed by generic claims 1-6, 9 and 10.

> 8. (Currently amended) The dermal or transdermal therapeutic system as claimed in claim 1, characterized in that ~~in each case~~ at least one ormocer layer is applied on both surfaces of the supporting layer.

The petition correctly states that the Office Action of May 28, 2008 made the lack of unity requirement final without providing a rationale for maintaining the election of species. The reasons are supplied as follows:

Relevant sections of PCT International Search and Preliminary Examination Guidelines (published January 2004) state

> Whether or not any particular technical feature makes a "contribution" over the prior art, and therefore constitutes a "special technical feature," is considered with respect to novelty and inventive step. (paragraph 10.02)
>
> If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims. (paragraph 10.07)

> If, however, an independent claim does not avoid the prior art, then the question whether there is still an inventive link between all the claims dependent on that claim needs to be carefully considered. If there is no link remaining, an objection of lack of unity a posteriori (that is, arising only after assessment of the prior art) may be raised. (paragraph 10.08)

In this instance, the species do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the species lack unity of invention because even though the species of these groups require the technical feature of a therapeutic device for the transdermal administration of a medicament, comprising a reservoir containing an active agent, a release layer formed on the inner surface of the reservoir (a peelable protective layer) and an active agent impermeable backing layer formed on the outer surface, this technical feature is not a special technical feature as it does not make a contribution over the prior art in view of Kwiatek et al. See the 35 US.C. 103(a) rejection of record.

MPEP 809 provides guidance on the examination practice of species encompassed by a generic claim:

> The most common types of linking claims which, if allowable, act to prevent restriction between inventions that can otherwise be shown to be divisible, are
>
> (A) genus claims linking species claims; and
>
> (B) subcombination claims linking plural combinations.
>
> Where an application includes claims to distinct inventions as well as linking claims, restriction can nevertheless be required.
>
> The linking claims must be examined with, and thus are considered part of, the invention elected. When all claims directed to the elected invention are allowable, should any linking claim be allowable, the restriction requirement between the linked inventions must be withdrawn. Any claim(s) directed to the nonelected invention(s), previously withdrawn from consideration, which depends from or requires all the limitations of the allowable linking claim must be rejoined and will be fully examined for patentability.
>
> Where the requirement for restriction in an application is predicated upon the nonallowability of generic or other type of linking claims, applicant is entitled to retain in the application claims to the nonelected invention or inventions.

In this application, the claims are rejected under 35 U.S.C. 112, 2nd paragraph and 35 U.S.C. 103 for the elected species, namely, the ormocer layer is applied on both sides of the supporting layer. Because the pending claim set does not include an allowable generic linking claim and because not all claims to the election species are in condition for allowance, there is no obligation on the examiner at this time to withdraw the election of species requirement or to examine non-elected species.

The argument that designated Offices should not raise an objection to lack of unity if no such opinion in is expressed in the international search report has been considered but found not persuasive for the following reasons. The opinions on novelty and inventive step expressed at the international stage are "non-binding" on any national Office (see 37 CFR 1.484, for example). The International authority's opinion on unity is similarly not considered to be binding opinions since neither the PCT nor the regulations under the PCT indicate that they are "binding". 37 CFR 1.499 states "If the examiner finds that a national stage application lacks unity of invention under § 1.475, the examiner may in an Office action require the applicant in the response to that action to elect the invention to which the claims shall be restricted." Thus there's no stipulation that a lack of unity is prohibited in the event that the international search authority did not make a lack of unity determination.

For these reasons, the requirement to elect a species of an ormocer layer applied to one or two surfaces is maintained, in light of the non-allowability of the generic Claim 1. Claim 7 remains withdrawn from consideration.

DECISION

The petition is **GRANTED-IN-PART** for the reasons set forth above.

The first election of species requirement (if the supporting layer of a covering file is or is not comprised of at least one organic polymer) has been withdrawn.

The second election of species requirement is maintained. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise require all the limitations of an allowed generic claim

The application will be forwarded to the examiner for further action consistent with this decision and for consideration of the papers filed September 29, 2008.

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600
jb/jg

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

COPY MAILED
FEB 05 2009
OFFICE OF PETITIONS

In re Application of	:	
Heinz Riess	:	
Application No. 10/567,089	:	DECISION ON PETITION
Deposited: February 3, 2006	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.181(A)
306.45851X00	:	
Title: PARTIAL DECOMPOSITION	:	
PROJECTILE WITH A DOUBLE CORE	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a), filed on January 16, 2009, requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (notice), mailed March 10, 2008, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on May 11, 2008. A notice of abandonment was mailed on November 21, 2008.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (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.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney

docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

With this petition, Petitioner has indicated that all notifications of missing requirements are entered into the firm's computer docketing system,[1] and an entry is also made in "the firm's main Docketing Book,"[2] which appears to be a calendar. The computer docketing system generates reports that are "distributed to the responsible attorneys/agents on a daily basis."[3] Reminders are generated and distributed to the

1 Petition, page 1.
2 Id.
3 Id. at 2.

responsible party "one month before the first due date, two weeks before each due date and the day of each due date."[4] Moreover the main docketing book is "reviewed daily by a docket clerk who coordinates all required responses among the responsible attorneys/agents."[5]

Petitioner has further indicated that the notice of March 10, 2008 was not received at the correspondence address of record,[6] and has provided a copy of the master docket in the form of a page from a calendar,[7] along with a copy of the record used by the practitioner where the allegedly non-received notice would have been entered had it been received.[8]

Moreover, Petitioner has asserted that he searched both the computer records and "the file,"[9, 10] and the search indicates that the Office action was not received.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the notice of March 10, 2008 was not received.

Accordingly, the petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN.**

The Office of PCT Operations will be notified of this decision. The Office of PCT Operations' support staff will re-mail the notice of March 10, 2008, and will set a new period for response.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Office of PCT Operations in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of PCT Operations where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

---

4 Id.
5 Id.
6 Petition, pages 1 and 2.
7 See calendar page dated October 10, 2008 (the maximum extendable period for reply).
8 See printout of individual docket report, entitled "Case Detail Report."
9 Petition, page 2.
10 The Office will construe this statement to mean that both the file jacket and the application contents were reviewed, and **Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.**

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[11] All other inquiries concerning examination procedures or status of the application should be directed to the Office of PCT Operations at 571-272-4300.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

11 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

COPY MAILED

FEB 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Heinz Riess	:	
Application No. 10/567,090	:	DECISION ON PETITION
Deposited: February 3, 2006	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.181(A)
306.45852X00	:	
Title: PARTIAL DECOMPOSITION	:	
WITH A MASSIVE CORE AND CORE	:	
MADE OF PRESSED POWDER	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a), filed on January 16, 2009, requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (notice), mailed March 10, 2008, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-

identified application became abandoned on May 11, 2008. A notice of abandonment was mailed on November 21, 2008.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (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.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office

action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

With this petition, Petitioner has indicated that all notifications of missing requirements are entered into the firm's computer docketing system,[1] and an entry is also made in "the firm's main Docketing Book,"[2] which appears to be a calendar. The computer docketing system generates reports that

1 Petition, page 1.
2 Id.

are "distributed to the responsible attorneys/agents on a daily basis."[3] Reminders are generated and distributed to the responsible party "one month before the first due date, two weeks before each due date and the day of each due date."[4] Moreover the main docketing book is "reviewed daily by a docket clerk who coordinates all required responses among the responsible attorneys/agents."[5]

Petitioner has further indicated that the notice of March 10, 2008 was not received at the correspondence address of record,[6] and has provided a copy of the master docket in the form of a page from a calendar,[7] along with a copy of the record used by the practitioner where the allegedly non-received notice would have been entered had it been received.[8]

Moreover, Petitioner has asserted that he searched both the computer records and "the file,"[9, 10] and the search indicates that the Office action was not received.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the notice of March 10, 2008 was not received.

Accordingly, the petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Office of PCT Operations will be notified of this decision. The Office of PCT Operations' support staff will re-mail the notice of March 10, 2008, and will set a new period for response.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Office of PCT Operations in response to this decision. It is noted that all inquiries with regard to any failure of that

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3 Id. at 2.
4 Id.
5 Id.
6 Petition, pages 1 and 2.
7 See calendar page dated October 10, 2008 (the maximum extendable period for reply).
8 See printout of individual docket report, entitled "Case Detail Report."
9 Petition, page 2.
10 The Office will construe this statement to mean that both the file jacket and the application contents were reviewed, and **Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.**

change in status should be directed to the Office of PCT Operations where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[11] All other inquiries concerning examination procedures or status of the application should be directed to the Office of PCT Operations at 571-272-4300.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

11 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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02 MAR 2007

G. Patrick Sage
The Firm of Hueschen and Sage
Seventh Floor, Kalamazoo Building
107 West Michigan Avenue
Kalamazoo, MI 49007

In re Application of KALVINSH Application No.: 10/567,130 PCT No.: PCT/LV04/00005 Int. Filing Date: 15 July 2004 Priority Date: 04 August 2003 Atty Docket No.: GRINDEX 1 PCT For: MELDONIUM SALTS, METHOD OF THEIR PREPARATION AND PHARMACEUTICAL COMPOSITION ON THEIR BASIS	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicant's petition under 37 CFR 1.181 filed 05 December 2006 in the United States Patent and Trademark Office (USPTO). No petition fee is due.

BACKGROUND

On 02 February 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 inventors.

On 18 August 2006, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 371 date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements as 07 February 2006.

On 05 December 2006, applicant filed the present petition claiming that the 371 requirements were satisfied on 02 February 2006 and requesting a new Form PCT/DO/EO/903 and corrected filing receipt.

DISCUSSION

Applicant has provided a legible copy of the receipt postcard which shows a USPTO date stamp, "IAP3 REC'D PCT/PTO 02 FEB 2006" and lists as one of the filed items Declaration/Power of attorney as well as listing the title, applicants 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 02 February 2006.

CONCLUSION

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

The application has an international filing date of 15 July 2004 under 35 U.S.C. 363 and will be given a date of **02 February 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 18 August 2006 is hereby **VACATED**.

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

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

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

COPY MAILED

DEC 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Roberto Angelo MOTTERLINI, et al	:	
Application No. 10/567,157	:	DECISION ON PETITION
Filed: June 1, 2006	:	TO WITHDRAW
Attorney Docket No. BJS-620-414	:	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 2, 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 the attorneys of record associated with Customer No. 23117.

The attorneys of record associated with Customer No. 23117 have been withdrawn.

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

All future communications from the Office will be directed to the first named signing inventor at the 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).

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERTO ANGELO MOTTERLINI
DEPT. OF SURGICAL RESEARCH,
NORTHWICK PARK INSTITUTE FOR
MEDICAL RESEARCH
WATFORD ROAD,
HARROW MIDDLESEX, HA1 3UJ
GREAT BRITAIN

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

Mail Date: 04/21/2010

Applicant	: Katsushige Marui	: DECISION ON REQUEST FOR
Patent Number	: 7635428	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/567,162	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **690** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 05/18/2010

Applicant : Katsushige Marui
Patent Number : 7635428
Issue Date : 12/22/2009
Application No : 10/567,162
Filed : 03/14/2006

: 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 **779** 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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NXP, B.V.
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

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OFFICE OF PETITIONS

In re Application of	:	
Visser et al.	:	
Application No. 10/567,172	:	DECISION ON PETITION
Filed: February 3, 2006	:	
Attorney Docket No. US03 0276 US2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 2, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed April 5, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 6, 2007. A Notice of Abandonment was mailed October 18, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Restriction Requirement, (2) the petition fee of $1,620.00 and (3) a proper statement of unintentional delay.

Further, 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Additionally, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In

accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.
Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571)272-7751.

This application is being referred to Technology Center AU 2863 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

06 MAR 2006

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

In re Application of JOSEPH M. AMATO Application No.: 10/567,173 PCT No.: PCT/US04/020573 Int. Filing: 25 June 2004 Priority Date: 25 June 2003 Attorney Docket No.: US03 0199 US02 For: OFFSET DEPENDENT RESISTOR FOR MEASURING MISALIGNMENT OF STITCHED MASKS	DECISION ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 03 February 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the basic national fee of $300 was paid. 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.

Applicant also submitted a declaration, in compliance with 37 CFR 1.497(a) and (b), and executed by the inventor. The $130 surcharge for filing the declaration after the thirty month period was charged to applicant's deposit account.

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 03 February 2006.

Cynthia M. Kratz

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

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

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02 NOV 2006

EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205

In re Application of:	:	
ROGERS, David, M., et al.	:	DECISION ON PETITION UNDER
U.S. Application No.: 10/567,174	:	37 CFR 1.47(a)
PCT No.: PCT/US2005/019699	:	
International Filing Date: 03 June 2005	:	
Priority Date: 03 June 2004	:	
Attorney's Docket No.: 61459(49366)	:	
For: OVERSPEED LIMITER FOR	:	
TURBOSHAFT ENGINES	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.497(b)(1) and 1.47(a)" filed 28 September 2006. Applicants have paid the required petition fee.

BACKGROUND

On 03 June 2005, applicants filed international application PCT/US2005/019699. The international application claimed a priority date of 03 June 2004 and it designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 03 December 2006.

On 03 February 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.

On 28 September, applicants filed the petition considered herein. The petition requests acceptance of the application without the signature of co-inventor David M. ROGERS, whom applicants assert has refused to execute the declaration.

DISCUSSION

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

Applicants here have submitted the required petition fee, and the petition expressly states the last known address of the nonsigning 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, the declaration materials filed by applicants here include one copy of "Page 1 of 4," "Page 2 of 4," and "Page 3 of 4," accompanied by two different copies of the signature page ("Page 4 of 4"). One signature page is executed by one of the named inventors, the other is executed by the two other cooperating inventors. This five-page declaration submission appears to be a compilation of two copies of a four-page declaration, and as such 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 submit complete copies of the declarations executed by each of the signing inventors (and containing an unsigned signature block for the non-signing inventor). Until the required declarations are submitted, item (3) is not 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 have provided a statement from David J. Silvia, with supporting documents, providing a firsthand showing that the non-signing inventor has been provided (via Certified Mail) with a request for signature and a copy of the application papers, that the, after additional email correspondence, the inventor has failed to provide the requested executed declaration. These materials provide an acceptable showing that the non-sgining inventor has refused to execute the declaration. Item (4) is therefore satisfied.

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)"

and must include the materials required to satisfy item (3) of a grantable petition, as discussed above. 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, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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

0 5 JAN 2007

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Alexandria, VA 22313-1450
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EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205

In re Application of: ROGERS, David, M., et al.	:	
U.S. Application No.: 10/567,174	:	DECISION ON RENEWED
PCT No.: PCT/US2005/019699	:	PETITION UNDER
International Filing Date: 03 June 2005	:	37 CFR 1.47(a)
Priority Date: 03 June 2004	:	
Attorney's Docket No.: 61459(49366)	:	
For: OVERSPEED LIMITER FOR	:	
TURBOSHAFT ENGINES	:	

In a decision mailed by this Office on 02 November 2006, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice for failing to satisfy all the requirements of a grantable petition. Specifically, applicants had not submitted an acceptable declaration executed by the cooperating inventors on their own behalf and on behalf of the non-signing inventor (the declaration submitted appeared to be a compilation of multiple declaration documents).

On 08 December 2006, applicants filed the renewed petition considered herein. The renewed petition is accompanied by copies of the complete four-page declaration documents executed by the three cooperating inventors, each of which includes an unsigned signature block for the non-signing inventor. These declarations satisfy the final outstanding requirement for a grantable petition under 37 CFR 1.47(a).

The renewed petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted without the signature of non-signing inventor David M. ROGERS.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the non-signing inventor of the application will be forwarded to the inventor's last-known address, as set forth in the petition.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 08 December 2006.

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

0 5 JAN 2007

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United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

David M. ROGERS
51 Oakengates
Avon, Connecticut 06001

In re Application of: ROGERS, David, M., et al.
U.S. Application No.: 10/567,174
PCT No.: PCT/US2005/019699
International Filing Date: 03 June 2005
Priority Date: 03 June 2004
Attorney's Docket No.: 61459(49366)
For: OVERSPEED LIMITER FOR TURBOSHAFT ENGINES

Dear Mr. ROGERS:

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:
EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205

01 MAR 2006

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FISH & RICHARDSON PC
P.O. Box 1022
Minneapolis, MN 55440-1022

In re Application of WANG, Feiling U.S. Application No.: 10/567,185 PCT No.: PCT/US2004/017649 Int. Filing Date: 04 June 2004 Priority Date: 04 June 2003 Attorney Docket No.: 17370-002US1 For: OPTICALLY MEASURING SUBSTANCES USING PROPAGATION MODES OF LIGHT	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

Applicant's "Petition to Revive Application Under 37 CFR 1.137(b)" filed on 02 February 2006 is hereby **GRANTED** as follows:

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

A signed oath or declaration was not included with any of the papers submitted.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $65.00 surcharge fee pursuant to 37 CFR 1.492(h) are required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/14/2009

TO SPE OF : ART UNIT 2877

SUBJECT : Request for Certificate of Correction for Appl. No 10/567,185 : 7,595,879

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)

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.

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

Comments: _____

/Gregory J. Toatley, Jr./ AU 2877

SPE **Art Unit**

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

Mail Date: 04/21/2010

Applicant	: Aloys Wobben	: DECISION ON REQUEST FOR
Patent Number	: 7625185	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/567,186	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

2 6 MAR 2007

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Alexandria, VA 22313-1450
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E. Russell Tarleton
SEED Intellectual Property Law Group, PLLC
701 Fifth Avenue, Suite 5400
Seattle, WA 98104-7092

In re Application of	:	
SCHAFER, et al.	:	
Application No.: 10/567,187	:	
PCT No.: PCT/US04/25047	:	DECISION ON PETITION
Int. Filing Date: 30 July 2004	:	
Priority Date: 04 August 2003	:	UNDER 37 CFR 1.42
Attorney Docket No.: 840070.406USPC	:	
For: NON-SLIP MEASURING TOOL AND	:	
METHOD OF MAKING	:	

This decision is in response to applicant's papers filed 16 November 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 30 July 2004, applicant filed international application PCT/US04/25047, which claimed a priority date of 04 August 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, 04 February 2006.

On 03 February 2006, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee, a preliminary amendment, an application data sheet and a substitute specification.

On 16 August 2006, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 16 November 2006, applicant filed the present response which included a declaration which was executed by Margaret D. Schafer in her own capacity as an inventor, as well as, as legal representative to the estate of deceased joint inventor Randal D. Schafer. The response was accompanied by a petition for a one-month extension of time and payment of the appropriate extension of time fee. 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 finds that the document lists the citizenship for all the inventors. Applicant has previously filed an application data sheet providing the post office and residence information. In addition, applicant has included a signed supplemental sheet to the declaration which identifies Margaret D. Schafer as the legal representative to the estate of Randal D. Schafer and lists her post office, residence and citizenship information. As such, the declaration is in compliance with 37 CFR 1.497(a)-(b) and 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 has an international application filing date of 30 July 2004 and will be given a date of **16 November 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626

Mail Date: 04/21/2010

Applicant	: Kenji Yoneda	: DECISION ON REQUEST FOR
Patent Number	: 7631999	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/567,234	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **61** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/567,246		Christopher James Newton Fryer	24963-0008

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

DATE MAILED: July 17, 2007

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

This is in response to the petition under 37 CFR 1.138(d) filed on July 9, 2007, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

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

- ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
- ☑ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
- ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
- ☐ 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.

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 305-4283.

Barbara J. Debnam
Pre-Grant Publication Division

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MERCK
P O BOX 2000
RAHWAY, NJ 07065-0907

Mail Date: 04/21/2010

Applicant	: Paul J. Coleman	: DECISION ON REQUEST FOR
Patent Number	: 7666862	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/567,249	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1045** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JOSEPH J. LAKS
THOMSON LICENSING LLC
2 INDEPENDENCE WAY, PATENT OPERATIONS
P.O. BOX 5312
PRINCETON, NJ 08543

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SEP 19 2008

In re Application of	:	
Chevallier et al.	:	
Application No. 10/567,272	:	DECISION ON PETITION
Filed: February 6, 2006	:	
Attorney Docket No. PF030127	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 29, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 30, 2008. A Notice of Abandonment was mailed June 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,540.00, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 2626 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

02 MAR 2006

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

In re Application of VAN DER BRUG Application No.: 10/567,273 PCT No.: PCT/IB04/50373 Int. Filing: 31 March 2004 Priority Date: 10 April 2003 Attorney Docket No.: NL030361US For: METHOD AND APPARATUS FOR DATA RETRIEVAL	DECISION ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 06 February 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 06 February 2006.

Cynthia M. Kratz

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

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

18 SEP 2006

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Jones Day
22 East 41st Street
New York, New York 10017

In re Application of
SCHADT et al.
U.S. Application No. 10/567,282
PCT No.: PCT/US04/17754
Int. Filing Date: 04 June 2004
Priority Date: 05 August 2003
Attorney Docket No.: 9301-237-999
For: COMPUTER SYSTEMS AND METHODS FOR INFERRING CAUSALITY FROM CELLULAR CONSTITUENT ABUNDANCE DATA

DECISION ON REQUEST

This decision is issued in response to applicants' "Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" filed 22 August 2006, which is being treated as a Petition under 37 CFR 1.497(d). The petition fee pursuant to 37 CFR 1.17(h) has been charged to the Deposit Account no. 50-3013.

BACKGROUND

On 04 June 2004, applicants filed international application no. PCT/US04/17754 which claimed a priority date of 05 August 2003. The international application named Eric Schadt and Stephanie A. Monks as applicants/inventors. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 05 February 2006.

On 03 February 2006, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; a copy of the international application; and an unexecuted declaration.

On 15 March 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond

On 22 August 2006, applicants filed a Petition under 37 CFR 1.497(d).

DISCUSSION

In the instant case, the international application named Eric Schadt and Stephanie A. Monks as applicants/ inventors. Applicants request to remove Stephanie Monks as an applicant/inventor. Additionally, applicants request to add John Lamb as an applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires: (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part; (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a); (3) the fee set forth in 37 CFR 1.17; 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).

With the filing the present request, applicants have satisfied items (1)- (4).

CONCLUSION

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

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

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

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43076
Mark D. Saralino
RENNER, OTTO, BOISELLE & SKLAR, LLP
1621 Euclid Ave., Nineteenth Floor
Cleveland, OH 44115-2191

In re Application of :
MORIMOTO *et al* :
U.S. Application No.: 10/567,285 :
PCT No.: PCT/EP2005/052225 : **DECISION**
Int. Filing Date: 04 August 2003 :
Priority Date: None :
Attorney Docket No.: KOMOP0109US :
For: POWER SUPPLY DEVICE AND :
COMMUNICATION SYSTEM :

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 19 May 2008.

BACKGROUND

On 18 March 2008, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and surcharge fee were required. Applicants were given two months to respond with extensions of time available.

On 19 May 2008, applicants filed the subject response which was accompanied by, *inter alia*, a petition under 37 CFR 1.47(a); a declaration signed by four of the five inventors on behalf of the nonsigning inventor; the surcharge fee and petition fee; a declaration of Masaru Nishijima; an unsigned assignment; and copies of several documents in a foreign language without an English translation.

DISCUSSION

Applicants claim that co-inventor, Kenichi Morimoto, refuses to join in the above-captioned application and have filed the subject petition under 37 CFR 1.47(a).

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

Items (1), (2) and (4) of 37 CFR 1.47(a) are satisfied in the petition.

Regarding item (2) of 37 CFR 1.47(a), a review of the statements by Mr. Nishijima show that applicants would satisfy the requirements of section 409.03(d)(II) of the MPEP. A complete copy of the application, including specification, claims and drawings were purportedly sent to the nonsigning inventor on 25 January 2006, 09 February 2006 and 07 January 2007. Mr. Morimoto has apparently not responded after a letter in which he apparently stated that "I will sign [the documents] after I'm convinced.

However, the documentary evidence provided are in a foreign language (Japanese) without an accompanying English translation. Applicants must submit English translations of the documentary evidence listed by Mr. Nishijima to corroborate the facts detailed in the petition for the petition to be granted.

For this reason, item (2) of 37 CFR 1.47(a) is 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. Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to the number listed below, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302; (Fax) (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

17 DEC 2008

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43076
Mark D. Saralino
RENNER, OTTO, BOISELLE & SKLAR, LLP
1621 Euclid Ave., Nineteenth Floor
Cleveland, OH 44115-2191

In re Application of	:	
MORIMOTO *et al*	:	
U.S. Application No.: 10/567,285	:	
PCT No.: PCT/EP2005/052225	:	**DECISION**
Int. Filing Date: 04 August 2003	:	
Priority Date: None	:	
Attorney Docket No.: KOMOP0109US	:	
For: POWER SUPPLY DEVICE AND	:	
COMMUNICATION SYSTEM	:	

This decision is in response to applicants' supplement to petition under 37 CFR 1.47(a) filed 29 October 2008.

BACKGROUND

On 11 September 2008, a decision dismissing applicants' 37 CFR 1.47(a) petition was mailed. Applicants were given two months to respond.

On 29 October 2008, applicants filed a renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, documentary evidence in support of the renewed petition along with accompanying English translations.

DISCUSSION

Petitioners failed to satisfy item (2) of 37 CFR 1.47(a) in the prior petition and were requested to provide English translations of the documentary evidence listed by Mr. Nishijima in his declaration to corroborate the facts detailed in the petition.

In the renewed petition, the 37 CFR 1.47(a) applicants provided the English translations of the letters as requested. However, petitioners were unable to locate a letter from the nonsigning inventor mailed on or around January 2006 that was discussed in the declaration of Mr. Nishijima.

Nonetheless, the evidence is sufficient to demonstrate that the conduct of Kenichi Morimoto constitutes a refusal to cooperate as contemplated by section 409.03(d) of the MPEP. Specifically the nonsigning inventor's failure to respond to the letters requesting that he cooperate (which were accompanied by a copy of the subject

application) is sufficient. Applicants have now provided sufficient evidence to meet the requirements of item (2) of 37 CFR 1.47(a).

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

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 04 August 2003 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 19 May 2008.

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

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

17 DEC 2008

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Kenichi Morimoto
1-8-16 Sakuragaoka, Seika-cho,
Soraku-gun
Kyota 619-0200
Japan

In re Application of
MORIMOTO *et al*
U.S. Application No.: 10/567,285
PCT No.: PCT/EP2005/052225
Int. Filing Date: 04 August 2003
Priority Date: None
Attorney Docket No.: KOMOP0109US
For: POWER SUPPLY DEVICE AND COMMUNICATION SYSTEM

Mr. Morimoto:

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

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

RENNER, OTTO, BOISELLE & SKLAR, LLP
1621 Euclid Ave., Nineteenth Floor
Cleveland, OH 44115-2191

15 JUN 2006

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WALLENSTEIN WAGNER & ROCKEY, LTD
311 SOUTH WACKER DRIVE
53RD FLOOR
CHICAGO IL 60606

In re Application of	:	
Chen et al.	:	
Application No.: 10/567,286	:	DECISION
PCT No.: PCT/CN04/00138	:	
Int. Filing Date: 23 February 2004	:	ON
Priority Date: 04 June 2003	:	
Attorney Docket No.: 2218 P 005	:	PETITION
For: A Cardio Myopeptin, The Production And The Use Thereof	:	

The petition to revive under 37 CFR 1.137(b) filed 23 March 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicants state that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." This statement is accepted in satisfaction of 37 CFR 1.137(b)(3).

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

The surcharge under 37 CFR 1.492(h) and processing fee under 37 CFR 1.492(i) are being charged to counsel's Deposit Account No. 23-0280, as authorized by the Transmittal Letter filed on 03 February 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 **03 February 2006**.

Leonard E. Smith
for Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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

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OFFICE OF PETITIONS

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER, NJ 07936-1080

In re Patent of Hellstern et al.	:	DECISION ON REQUEST
Patent No. 7,615,609	:	FOR RECONSIDERATION OF
Issue Date: November 10, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/567,299	:	AND NOTICE OF INTENT TO
Filing Date: February 6, 2006	:	ISSUE CERTIFICATE OF
Attorney Docket No. ON/4-33308A	:	CORRECTION

This is a decision on the petition filed January 8, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by two hundred (200) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by two hundred (200) days is **GRANTED to the extent indicated herein**.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

Patentees contend the period of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") is 62 days and the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 277 days.

The Office would agree the patent term adjustment is 200 days *if* the period of A Delay was 62 days and the period of B Delay was 277 days. However, the Office contends the period of A Delay is 59 days and the period of B Delay is 275 days.

A Delay

The Office determined the period of A Delay is 59 days when calculating the patent term adjustment that appeared on the Notice of Allowance and on the patent. Patentees contend the period of A Delay is 62 days.

37 C.F.R. § 1.705(d) states, "Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues." The period of A Delay in this case is based solely on events that took place prior to the mailing of the Notice of Allowance and a petition under 37 C.F.R. § 1.705(b) could have been filed asserting the period of A Delay is 62 days. Therefore, the instant decision will not review the Office's prior determination that the period of A Delay is 59 days.

B Delay

Subject to some exceptions, 35 U.S.C. § 154(b)(1)(B) provides for a patent term adjustment when the Office issues a patent more than "3 years after the actual filing date of the application in the United States." In the case of an international application, the phrase "actual filing date of the application in the United States" means the date the national stage commenced under 35 U.S.C. 371(b) or (f). *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term*, 65 FR 56366, 56382-84, (Sept. 18, 2000), 1239 Off. Gaz. Pat. Office 14, 28-30 (Oct. 3, 2000).

In this case, the national stage commenced February 8, 2006. Therefore, the period of B Delay is 275 days which is the number of days beginning February 9, 2009, the day after the date three years after the date of commencement, and ending on November 10, 2009, the date of issuance.

Conclusion

The patent term adjustment is 195 days, which is the sum of 59 days of A Delay and 275 days of B Delay reduced by 0 days of overlap between A Delay and B Delay and reduced by 139 days of Applicant Delay.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **one hundred ninety-five (195)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,615,609 B2
APPLICATION NO.	:	10/567,299
DATED	:	November 10, 2009
INVENTOR(S)	:	Heribert Hellstern et al.

DRAFT

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

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 136 days.

Delete the phrase "by 136 days" and insert -- by 195 days--

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22 FEB 2006

Samuel W. Apicelli
Duane Morris LLP
30 S. 17th Street
Philadelphia, PA 19103-4196

In re Application of
BAST et al.
Application No.: 10/567,302
PCT No.: PCT/EP04/07685
Int. Filing Date: 12 July 2004
Priority Date: 10 July 2003
Attorney Docket No.: D4695-00147
For: PET DRINKING JAR FOR RECEIVING AND OPENING A CLOSED BEVERAGE CAN

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 06 February 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

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

Anthony Smith

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

17 MAY 2006

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KAGAN BINDER, PLLC
SUITE 200, MAPLE ISLAND BUILDING
221 MAIN STREET NORTH
STILLWATER, MN 55082

In re Application of	:	
HERLIHY, Shaun Lawrence et al.	:	
Application No.: 10/567,310	:	DECISION
PCT No.: PCT/US04/21370	:	
Int. Filing Date: 02 July 2004	:	ON PETITION UNDER
Priority Date: 04 July 2003	:	
Docket No.: VOS0054/US	:	37 CFR 1.137(b)
For: PIPERAZINE-BASED SENSITISERS	:	

Applicants' "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 03 February 2006 is **GRANTED**.

Applicants statement that the delay was unintentional is construed to mean 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). If this is not correct, applicants must notify the Office immediately. 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 feel for submitting the search fee, examination fee or oath or declaration later than 30 months from the priority date will be charged to deposit account no. 50-1775, 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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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Mail Date: 04/20/2010

Applicant	: Peter Bauer	: DECISION ON REQUEST FOR
Patent Number	: 7588340	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/567,323	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/07/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **189** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ARENT FOX LLP
1050 Connecticut Avenue, N.W.
Suite 400
Washington, DC 20036

JAN 3 0 2008

In re Application of	:	DECISION ON REQUEST TO
Yuichi MATSUO et al.	:	PARTICIPATE IN PATENT
Application No. 10/567341	:	PROSECUTION HIGHWAY
Filed: February 1, 2006	:	PILOT PROGRAM AND PETITION
Attorney Docket No. 108421-00126	:	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 January 3, 2008, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition fails to include:

The claims filed in the U.S. application Claims 6-8 and 10-15 do not sufficiently correspond to the allowable/patentable claims in the JPO application. It appears that the U.S. claims have a different scope than the claims of the JPO application. For example: Claim 12 along with Claim

11 of the U.S. Application do not claim PdO which is claimed in Claim 1 of the JP application. Also, Claim 11, last line claims a "nitrate solution including a component" while Claim 3 of the JP application claims "nitrate solution including Ln and Al." Please compare the rest of the claims for similar differences.

Also not included is the Japanese language copy of the Japanese allowed claims.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to Kathryn Gorgos at 571 273-1012.

Telephone inquiries concerning this decision should be directed to Kathryn Gorgos at 571 272-1012.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

Kathryn Gorgos
TC 1700 TQAS

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ARENT FOX LLP
1050 Connecticut Avenue, NW
Suite 400
Washington, DC 20036-5339

APR - 7 2008

In re Application of	:	DECISION ON REQUEST TO
Yuichi MATSUO et al.	:	PARTICIPATE IN PATENT
Application No. 10/567341	:	PROSECUTION HIGHWAY
Filed: February 6, 2006	:	PILOT PROGRAM AND PETITION
Attorney Docket No. 108421-00126	:	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 January 3, 2008 and the preliminary amendment, filed March 28, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kathryn Gorgos at 571 272-1012.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kathryn Gorgos
TQAS TC 1700

ARENT FOX LLP
1050 Connecticut Avenue, NW
Suite 400
Washington, DC 20036-5339

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE NW, SUITE 800
WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of
NAKATA, et al.
Application No. 10/567,358
Filed: February 6, 2006
Attorney Docket No. Q92997

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 14, 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 January 4, 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 Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2841 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

Mail Date: 04/20/2010

Applicant	: Simon Leonard Rumer	: DECISION ON REQUEST FOR
Patent Number	: 7640647	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/567,377	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/07/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **292** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : Simon Leonard Rumer
Patent Number : 7640647
Issue Date : 01/05/2010
Application No : 10/567,377
Filed : 02/07/2006

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

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

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

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

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THE NATH LAW GROUP
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

MAILED

MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of
Arthur M. Deboeck, et al.
Application No. 10/567,408
Filed: October 5, 2006
Attorney Docket No. 2505-019

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 14, 2010.

The request is **NOT APPROVED**.

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

The request cannot be approved because practitioners were not appointed by customer number. Petitioner must withdraw in the same manner by which they were appointed. The Office strongly encourages practitioners(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she, is in fact, of record and how he or she was made of record. Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a Request for Customer Number Data Change (PTO/SB/124) and not a Request for Withdrawal as Attorney or Agent and Change of Correspondence Address (Form PTO/SB/83).

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

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

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

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

cc: GALEPHAR PHARMACEUTICAL RESEARCH, INC.
C/O WILLIAM E. BEAUMONT
627 SOUTH ASAPH STREET
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 2 0 2010

OFFICE OF PETITIONS

PATZIK, FRANK & SAMOTNY LTD.
150 SOUTH WACKER DRIVE
SUITE 1500
CHICAGO, IL 60606

In re Application of	:	
NEWPORT, Colin W.	:	
Application No. 10/567,423	:	DECISION ON PETITION
Filed: February 22, 2007	:	TO WITHDRAW
Attorney Docket No. **BCG 0008 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 February 23, 2010.

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

A review of the file record indicates that the power of attorney to PATZIK, FRANK & SAMOTNY LTD. has been revoked by the assignee of the patent application on January 18, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the 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: **IPHORGAN, LTD.**
1130 LAKE COOK ROAD
SUITE 240
BUFFALO GROVE IL 60089

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Alexandria, VA 22313-1450
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19 APR 2007

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

In re Application of EDWARD J. SARE Application No.: 10/567,433 PCT No.: PCT/US04/18934 Int. Filing: 15 July 2004 Priority Date: 11 August 2003 Attorney Docket No.: 2215-062814 For: HIGH WHITENESS METAKAOLIN AND HIGH WHITENESS FULLY CALCINED KAOLIN	DECISION ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 16 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 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 Notification of Missing Requirements (Form PCT/DO/EO/905) (copy enclosed) was mailed to applicants on 9 June 2006 and a Notification of Abandonment for failure to respond to the 905 was mailed on 27 March 2007.

A review of the declaration executed by the inventors indicates that it is in compliance with 37 CFR 1.497(a) and (b). The required petition fee of $1500 and the $130 surcharge for filing the declaration after the thirty month period was also paid. Thus, the requirements of 37 CFR 1.137(b) are satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **16 April 2007.**

Cynthia M. Kratz

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

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

Enclosure: Form PCT/DO/EO/905 mailed 9 June 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.
10/567,433	Edward J. Sare	07990.0025-00000

INTERNATIONAL APPLICATION NO.	
PCT/US04/18934	
I.A. FILING DATE	PRIORITY DATE
07/15/2004	08/11/2003

22852
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

CONFIRMATION NO. 8450
371 FORMALITIES LETTER

OC000000019198125

Date Mailed: 06/09/2006

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 02/06/2006
- Copy of the International Search Report filed on 02/06/2006
- Request for Immediate Examination filed on 02/06/2006
- U.S. Basic National Fees filed on 02/06/2006
- Priority Documents filed on 02/06/2006
- Specification filed on 02/06/2006
- Claims filed on 02/06/2006
- Abstracts filed on 02/06/2006

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fees required for this application is **$230** for a Large Entity:

- **$130** Surcharge.

  - The application search fee has not been paid. Applicant must submit **$100** to complete the search fee. Note a surcharge will be required if submitted later than commencement of the national stage (37 CFR 1.492(h)) and the basic national fee was not paid before July 1, 2005.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

PAULETTE R KIDWELL

Telephone: (703) 308-9140 EXT 216

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/567,433	PCT/US04/18934	07990.0025-00000

FORM PCT/DO/EO/905 (371 Formalities Notice)

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.
10/567,435	11/30/2006	Noriyuki Abe	062028	8461

38834 7590 03/05/2008
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

EXAMINER
AVERY, BRIDGET D

ART UNIT	PAPER NUMBER
3618	

MAIL DATE	DELIVERY MODE
03/05/2008	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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Westerman, Hattori, Daniels & Adrian, LLP
1250 Connecticut Avenue, NW
Suite 700
Washington, DC 20036

In re application of Noriyuki Abe et al. Application No. 10/567,435 Filed: November 30, 2006 For: HYBRID VEHICLE	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed January 3, 2008, to make the above-identified application special.

The request and petition are **DISMSSED**.

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:

(5) 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.

The request and petition includes an English translation of the May 17, 2006 Office action issued in the Japanese application; however, a copy of the Japanese Office action itself was not included.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must submitted by EFS-Web using the document description "Petition to make special under Pat Pros Hwy".

Telephone inquires concerning this decision should be directed to Teri P. Luu at 571-272-7045. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

tpl: 03/03/08

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.
10/567,435	11/30/2006	Noriyuki Abe	062028	8461

38834 7590 05/15/2008
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

EXAMINER
AVERY, BRIDGET D

ART UNIT	PAPER NUMBER
3618	

MAIL DATE	DELIVERY MODE
05/15/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAILED
FROM DIRECTORS OFFICE

MAY 14 2008

TECHNOLOGY CENTER 3600

Westerman, Hattori, Daniels & Adrian, LLP
1250 Connecticut Avenue, NW
Suite 700
Washington, DC 20036

In re application of
Noriyuki Abe et al.
Application No. 10/567,435
Filed: November 30, 2006
For: HYBRID VEHICLE

: DECISION ON REQUEST TO
: PARTICIPATE IN PATENT
: PROSECUTION HIGHWAY
: PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the renewed petition under 37 CFR 1.102(d), filed March 31, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the Office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO Office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

In light of submission of a copy of the Japanese Office action dated May 17, 2006, the request to participate in the PPH Pilot program and petition now comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Teri P. Luu at 571-272-7045.

All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Teri P. Luu
Quality Assurance Specialist
Technology Center 3600

tpl: 04/03/08

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

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

Mail Date: 04/20/2010

Applicant	: Kazuo Oki	: DECISION ON REQUEST FOR
Patent Number	: 7662354	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/567,442	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/07/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **757** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

19 APR 2006

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

In re Application of	:	
PREMARTIN et al.	:	
Application No.: 10/567,449	:	DECISION ON
PCT No.: PCT/EP04/07571	:	
Int. Filing Date: 06 July 2004	:	PETITION UNDER
Priority Date: 11 July 2003	:	
Attorney Docket No.: 285482US6XPCT	:	37 CFR 1.137(b)
For: LOAD CARRIERS FOR VEHICLES	:	

This decision is in response to applicants' submission filed 07 February 2006.

BACKGROUND

On 06 July 2004, applicants filed international application PCT/EP04/07571 which designated the U.S. and claimed a priority date of 11 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 20 January 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 11 January 2006.

On 07 February 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, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 07 February 2006.

As to item (2), applicant submitted the petition fee on 07 February 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).

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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FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60654-5313

MAILED

JUL 14 2010

OFFICE OF PETITIONS

In re Patent of Dobrovolny :
Patent No. 7,507,825 :
Issue Date: March 24, 2009 : ON PETITION
Application No. 10/567,472 :
Filed: February 7, 2006 :
Atty Docket No. 087329-0108 :
(078556-0144) :

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed April 24, 2009. Patentee requests that the determination of patent term adjustment under 35 U.S.C. § 154(b) be reviewed/recalculated for accuracy. The request will be treated as a petition under 37 CFR 1.705(d).

The request for review of the determination of patent term adjustment (PTA) is **dismissed**.

On April 24, 2009, patentee submitted the instant comment. On March 24, 2009, the above-identified application matured into U.S. Patent No. 7,507,825, with a revised patent term adjustment of 240 days. Patentee states no basis for the request for review of the patent term adjustment.

A review of the application history supports a conclusion that the number of days adjusted for Office delay and the number of days reduced for Patentee's delay was correct. Patentee does not state a basis for their disagreement with the according of 240 days of PTA. A copy of the PALM calculations for this application is enclosed. Patentee continues to be under a duty to advise the Office of any error in according too much PTA.

In view thereof, the revised Patent Term Adjustment remains two hundred forty (240) days.

The Office will charge the $200.00 fee under 37 CFR 1.18(e) to deposit account no. 19-0741.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being forwarded to Files Repository.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

enc: copy of PALM screen for U.S. Application No. 10/567,472

CC: FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

Day : Tuesday
Date: 6/29/2010

PALM INTRANET

Time: 11:41:59

PTA Calculations for Application: 10/567472			
Application Filing Date:	02/07/2006	PTO Delay (PTO):	360
Issue Date of Patent:	03/24/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	120
Post-Issue Petitions:	0	Total PTA (days):	240
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
59	03/24/2009	PATENT ISSUE DATE USED IN PTA CALCULATION	314		52
58	02/18/2009	EXPORT TO FINAL DATA CAPTURE			
57	02/17/2009	DISPATCH TO FDC			
56	02/13/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
55	02/13/2009	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
54	02/12/2009	RESPONSE TO AMENDMENT UNDER RULE 312			
53	01/14/2008	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		120	55
52	01/14/2008	ISSUE FEE PAYMENT VERIFIED			
51	01/14/2008	ISSUE FEE PAYMENT RECEIVED			
50	10/19/2007	EXPORT TO INITIAL DATA CAPTURE			
49	10/15/2007	MAIL NOTICE OF ALLOWANCE			
48	10/04/2007	ISSUE REVISION COMPLETED			
47	10/04/2007	DOCUMENT VERIFICATION			
46	10/04/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
45	10/04/2007	NOTICE OF ALLOWABILITY			
44	09/21/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	09/21/2007	REFERENCE CAPTURE ON IDS			
42	09/21/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	10/01/2007	DATE FORWARDED TO EXAMINER			
40	09/21/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			

39	10/01/2007	DISPOSAL FOR A RCE / CPA / R129			
38	09/21/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	09/21/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	09/21/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
35	07/18/2007	FINISHED INITIAL DATA CAPTURE			
34	06/29/2007	EXPORT TO INITIAL DATA CAPTURE			
33	06/27/2007	MAIL NOTICE OF ALLOWANCE	46		26
32	04/30/2007	CORRESPONDENCE ADDRESS CHANGE			
31	04/30/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
30	03/09/2007	ISSUE REVISION COMPLETED			
29	03/09/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
28	03/09/2007	NOTICE OF ALLOWABILITY			
27	01/29/2007	DATE FORWARDED TO EXAMINER			
26	01/12/2007	RESPONSE AFTER NON-FINAL ACTION			
25	11/03/2006	MAIL NON-FINAL REJECTION			
24	11/01/2006	NON-FINAL REJECTION			
23	10/24/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	10/24/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	02/07/2006	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
20	02/07/2006	PRELIMINARY AMENDMENT			
19	02/07/2006	371 COMPLETION DATE			
18	06/09/2006	APPLICATION RETURN FROM OIPE			
17	06/09/2006	APPLICATION RETURN TO OIPE			
15	06/09/2006	APPLICATION RETURN FROM OIPE			
14	06/09/2006	APPLICATION RETURN TO OIPE			
12	06/09/2006	APPLICATION RETURN FROM OIPE			
11	06/09/2006	APPLICATION RETURN TO OIPE			
9	06/09/2006	APPLICATION RETURN FROM OIPE			
8	06/09/2006	NOTICE OF DO/EO ACCEPTANCE MAILED			
7	06/09/2006	APPLICATION RETURN TO OIPE			
5	06/05/2006	APPLICATION DISPATCHED FROM OIPE			
4	06/05/2006	NOTICE OF DO/EO ACCEPTANCE MAILED			
3	05/27/2006	CORRESPONDENCE ADDRESS CHANGE			

2	03/03/2006	CLEARED BY OIPE CSR			
1	02/07/2006	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of	:	
Kazunori Igarashi et al	:	
Application No. 10/567,476	:	DECISION GRANTING PETITION
Filed: February 2, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 09852/0203960-USO	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 7, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1793 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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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.*

Office of Petitions

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New York, NY 10008-0770

Mail Date: 04/21/2010

Applicant	: Kazunori Igarashi	: DECISION ON REQUEST FOR
Patent Number	: 7575645	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/567,476	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **340** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Leason Ellis LLP
81 Main Street
Suite 503
White Plains, NY 10601

Mail Date: 05/18/2010

Applicant : Kazunori Igarashi
Patent Number : 7575645
Issue Date : 08/18/2009
Application No : 10/567,476
Filed : 07/18/2006

: 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 **373** 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

0 8 DEC 2006

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INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Application of Bott et al. Application No. 10/567,496 PCT No.: PCT/EP04/08961 Int. Filing Date: 10 August 2004 Priority Date: 11 August 2003 Atty. Docket No.: 2003P01124WOUS For: Vacuum Cleaner Having A Blower Capsule	:	COMMUNICATION

This is in response to the declaration of the inventors filed on 21 August 2006, which is being treated under 37 CFR 1.42.

BACKGROUND

This international application was filed on 10 August 2004, claimed an earliest priority date of 11 August 2003, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 24 February 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 13 February 2006 (since 11 February 2006 was a Saturday).

Applicant filed, *inter alia*, the basic national fee on 07 February 2006.

On 07 August 2006, a Notice of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

DISCUSSION

Review of the declaration of the inventors filed on 21 August 2006 reveals that joint inventor Anja Niedergesass is indicated to be "deceased" and that Jorg Niedergesass has signed on her behalf. 37 CFR 1.42 provides in part that

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

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

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

Further examination of the declaration filed on 21 August 2006 reveals that Jorg Niedergesass has signed in the capacity of "legal representative of the deceased inventor," and that the declaration identifies his citizenship, residence and postal address. The declaration does not explicitly provide "the facts which the inventor would have been required to state" in that Anja Niedergesass' citizenship, residence and mailing address information is not explicitly listed, nor is the residence and/or mailing address provided on an Application Data Sheet. Although the English translation of the German language documentation of Mr. Niedergesass' appointment as executor identifies an address where the deceased inventor is indicated as "most recently having resided," this is not sufficient to cure the defect in the declaration. As such, the declaration does not comply with 37 CFR 1.497(b)(2). Accordingly, it would not be appropriate to accept it under 37 CFR 1.42 at this time.

CONCLUSION

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

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

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

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

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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 04/21/2010

Applicant	: Masaki Kanazawa	: DECISION ON REQUEST FOR
Patent Number	: 7608918	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/567,523	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **102** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

In re Application of	:	DECISION ON
CHO	:	
Application No.: 10/567,529	:	PETITION UNDER
PCT No.: PCT/KR2004/002466	:	
Int. Filing Date: 24 September 2004	:	37 CFR § 1.47(b)
Priority Date: 26 September 2003	:	
Attorney Docket No.: 05-476-C	:	
For: APPARATUS AND METHOD FOR THE	:	
POSITION OF A PERSON/OBJECT USING A	:	
MOBILE COMMUNICATION NETWORK		

This is a decision on applicant's petition under 37 CFR 1.47(b) filed in the United States Patent and Trademark Office (USPTO) on 19 March 2007.

BACKGROUND

On 24 September 2004, applicant filed international application PCT/KR2004/002466, which designated the US and claimed a priority date of 26 September 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 07 April 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 March 2006 (26 March 2006 being a Sunday).

On 07 February 2006, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and the surcharge under 37 CFR 1.492(h).

On 14 September 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable period for reply.

On19 March 2007, applicant submitted the instant petition under 37 CFR 1.47(b). The petition was accompanied by, *inter alia*, a petition/fee for a four month extension of time, a

declaration of facts by Joo-Young Kim, a memorandum of law by Joo-Young Kim, and a declaration of facts by Jiwon Lim.

DISCUSSION

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

Items (1), (3), (4), and (6) have been met.

Item (2) has not been met. The declaration of facts of Jiwon Lim and the accompanying exhibits have been considered. It appears that the internet searches for Mr. Cho's e-mail address and telephone number may have been too specific. For example, in Exhibit 5, the name "Cho Choon Geun" seems to have been used as a search term along with a range for the "Residence ID". It is not clear if a "Residence ID" is required. If it is, perhaps the range can be broadened. Additionally, a broader search using "Cho Choon" as the name would seem to be reasonable. Similar concerns are present in Exhibit 5. Again, it is not clear that a partial address is required. If it is required, perhaps it should be broadened. Also, it appears that a broader search can reasonably used for Mr. Cho's name.

Item (5) has not been met. The declaration of facts Joo-Young Kim and the memorandum of law by Joo-Young Kim have been considered. The invention disclosure form mentioned in the memorandum appears to be the "Employee's Declaration of Invention" included in Exhibit 3. It is unclear why three additional inventors (You In Ho, Kim Dae Joong, and Yang Ho Yong) are listed in this disclosure form but only one inventor is listed in the international application. The "Assignment" in Exhibit 3 has also been considered. However, the only identifier tying the signed "Employee's Declaration of Invention" and the "Assignment" are the names. Again, four names are given while only one is listed in the international application. The memorandum of law also states that "[a]ll facts in support of the argument and conclusion are set forth in the Declaration of Andrew Choung under M.P.E.P. 409.03(f)." However, a declaration of Andrew Choung does not appear in the application file. Also, the memorandum identifies the application by referring to Schedule A, columns 3-6 and 8. However, these identifiers identify 28 different applications. It appears that a row of Schedule A would need to be identified.

CONCLUSION

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

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

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

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

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CHICAGO IL 60606

In re Application of	:	DECISION ON
CHO	:	
Application No.: 10/567,529	:	PETITION UNDER
PCT No.: PCT/KR2004/002466	:	
Int. Filing Date: 24 September 2004	:	37 CFR § 1.47(b)
Priority Date: 26 September 2003	:	
Attorney Docket No.: 05-476-C	:	
For: APPARATUS AND METHOD FOR THE	:	
POSITION OF A PERSON/OBJECT USING A	:	
MOBILE COMMUNICATION NETWORK		

This is a decision on applicant's renewed petition under 37 CFR 1.47(b) filed in the United States Patent and Trademark Office (USPTO) on 28 June 2007.

BACKGROUND

On 24 September 2004, applicant filed international application PCT/KR2004/002466, which designated the US and claimed a priority date of 26 September 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 07 April 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 March 2006 (26 March 2006 being a Sunday).

On 07 February 2006, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and the surcharge under 37 CFR 1.492(h).

On 14 September 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable period for reply.

On 19 March 2007, applicant submitted a petition under 37 CFR 1.47(b). The petition was accompanied by, *inter alia*, a petition/fee for a four month extension of time, a declaration of facts by Joo-Young Kim, a memorandum of law by Joo-Young Kim, and a declaration of facts by Jiwon Lim.

On 10 May 2007, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.47(b). Specifically, it was noted that factual proof that the inventor cannot be reached after diligent effort had not been provided nor had proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application.

On 28 June 2007, applicants submitted the instant renewed petition under 37 CFR 1.47(b) which was accompanied by, *inter alia*, a second declaration of facts by Jiwon Lim and a corrected memorandum of law by Joo-Young Kim.

DISCUSSION

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

As noted in the decision mailed 10 May 2007, items (1), (3), (4), and (6) have been met.

Items (2) and (5) have now been met as well.

CONCLUSION

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

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **19 March 2007**.

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

27 FEB 2006

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PILLSBURY WINTHROP SHAW PITTMAN LLP
Intellectual Property Group
P.O. Box 10500
McLean, VA 22102

In re Application of: DEAKTER, Daniel U.S. Application No.: 10/567,534 PCT No.: PCT/US2004/007409 International Filing Date: 11 March 2004 Priority Date: 11 March 2003 Attorney's Docket No.: 016351-0313138 For: A METHOD AND PROCESS THAT AUTOMATICALLY FINDS PATIENTS FOR CLINICAL DRUG OR DEVICE TRIALS	DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition for revival under 37 CFR 1.137(b) filed 06 February 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

Applicant has submitted the small entity basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an executed oath or declaration in compliance with 37 CFR 1.497.

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

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Pillsbury, Winthrop, Shaw, Pittman, LLP
P.O. Box 10500
Mclean, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Daniel R. Deakter	:	
Application No. 10/567,534	:	DECISION ON PETITION
Filed: August 17, 2006	:	TO WITHDRAW
Attorney Docket No. 016351-0313138	:	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 January 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. 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 H. Jaffer on behalf of all attorneys/agents associated with customer number 27498. All attorneys/agents of record associated with customer number 27498 have been withdrawn.

The correspondence address has been changed and is copied below.

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

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: Daniel R. Deakter
8281 Hampton Wood Drive
Boca Raton, FL 33433

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/567,534	08/17/2006	Daniel Deakter	016351-0313138

CONFIRMATION NO. 8587

POWER OF ATTORNEY NOTICE

27498
PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN, VA 22102

OC000000028724726

Date Mailed: 03/10/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/15/2008.

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

/kainabinet/

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

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VERENIUM CORPORATION
Intellectual Property Department
P.O. Box 910550
SAN DIEGO, CA 92191-0550

Mail Date: 06/04/2010

Applicant	: Tim Hitchman	: DECISION ON REQUEST FOR
Patent Number	: 7741089	: RECALCULATION of PATENT
Issue Date	: 06/22/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/567,536	: OF WYETH
Filed	: 01/03/2007	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

0 6 JUN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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Martin D Moynihan
Prtsi Inc
P o box 16446
Arlington VA 22215

In re Application of HARATS et al. Application No.: 10/567,543 PCT No.: PCT/IL04/00453 Int. Filing Date: 27 May 2004 Priority Date: 27 May 2003 Attorney Docket No.:31532 For: OXIDIZED LIPIDS AND USES THEREOF IN THE TREATMENT OF INFLAMMATORY DISEASES AND DISORDERS	DECISION ON under 37 CFR 1.497(d)

This is a decision on applicant's' " Petition to Correct Inventor's Names" under 37 CFR 1.497(d), filed on 25 April 2008 in the United States Patent and Trademark Office (USPTO), requesting acceptance of the declaration in the above reference application.

BACKGROUND

On 20 March 2008, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, were required.

On 18 April 2008, applicant filed a response along with an executed declaration.

On 25 April 2008, applicant filed a "Petition to Correct Inventor's Name" under 37 CFR 1.497(d) along with an executed declaration.

DISCUSSION

Niva Yacov and Eti Kovalevski-Ishai were not named as inventors in the published international application PCT/IL04/00453. The declaration submitted on 25 April 2008 identified Niva Yacov and Eti Kovalevski-Ishai as co-inventors and thus was not in compliance with 37 CFR 1.497(a) and (b). Since Niva Yacov and Eti Kovalevski-Ishai were not accepted under PCT Rule 92*bis* as co-inventors, it is improper to accept a declaration identifying them as co-inventors. Applicant asks consideration of his petition under 37 CFR 1.497(d) to add Niva Yacov and Eti Kovalevski-Ishai as inventors.

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 has provided the Written Consent of Vascular Biogenics Ltd. to correct the inventorship under 37 CFR 1.497(d)(3) consenting to the addition of Niva Yacov and Eti Kovalevski-Ishai as inventors in this application. Item (3) above is satisfied.

Accordingly, applicant has now met all of the requirements to add Niva Yacov and Eti Kovalevski-Ishai as co-inventor in the above-identified international application. The petition under 37 CFR 1.497(d) is hereby granted.

CONCLUSION

The petition under 37 CFR 1.1497(d) to Correct Inventor's Names in the above-captioned application is **GRANTED**.

The declaration, executed by all inventors including Niva Yacov and Eti Kovalevski-Ishai as a joint inventors in the above referenced application, 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 **25 April 2008.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

06 JUL 2006

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Alexandria, VA 22313-1450
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WENDEROTH, LIND & PONACK L.L.P.
2033 K. STREET, NW
SUITE 800
WASHINGTON DC 20006

In re Application of:	:	
YAMAMICHI, Masato, et al.	:	DECISION REGARDING
U.S. Application No.: 10/567,584	:	SUBMISSION UNDER
PCT No.: PCT/JP2004/012226	:	37 CFR 1.42
International Filing Date: 19 August 2004	:	
Priority Date: 20 August 2003	:	
Attorney's Docket No.: 20006-0112A	:	
For: CONTENT REPRODUCTION	:	
SYSTEM	:	

This communication is issued in response to applicants' submission on 08 February 2006 of a declaration executed on behalf of deceased inventor Masato YAMAMICHI by the deceased inventor's heirs. The submission has been treated as a submission under 37 CFR 1.42.

BACKGROUND

On 19 August 2004, applicants filed international application PCT/JP2004/012226. The international application claimed a priority date of 20 August 2003, and it designated the United States. On 03 March 2005, 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 February 2006.

On 08 February 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 and the declaration considered herein under 37 CFR 1.42 and 1.497.

DISCUSSION

37 CFR 1.42 states in part:

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

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

37 CFR 1.497(b)(2) states:

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

Pursuant to 37 CFR 1.497(b)(2), the citizenship for **both** the deceased inventor and the legal representative (or heirs) must be identified on the declaration (as well as the mailing address and residence information of the legal representative and all other information required under 37 CFR 1.497).

Here, the declaration filed 08 February 2006 includes the required citizenship, residence, and mailing address information for the persons signing the declaration on behalf of the deceased inventor. However, the declaration does not set forth the citizenship of the deceased inventor. In addition, neither the declaration nor any materials submitted therewith state that the three heirs listed in the declaration are the only heirs of the deceased inventor. Applicants must provide a revised declaration executed by the legal representative of the deceased inventor (or all his heirs) that includes all required information, including the citizenship of the deceased inventor. Such declaration must also make clear on its face, or be accompanied by a statement and/or supporting documentation confirming, that the persons executing the declaration on behalf of the deceased inventor are the only heirs of the deceased inventor.

CONCLUSION

The declaration filed 08 February 2006 under 37 CFR 1.42 is **REJECTED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mail date this communication to submit a proper response under 37 CFR 1.42 and 1.497. Failure to file a proper and timely response will result in abandonment.

Extensions of time are available under 37 CFR 1.136(a).

A proper response must include a revised declaration executed by the legal representative of the deceased inventor (or all the heirs) that includes all the information required by 37 CFR 1.497 (including the citizenship of the deceased inventor), as well as a statement and/or supporting documentation confirming that the persons executing the declaration on behalf of the

deceased inventor are the only heirs of the deceased inventor. Applicants must also submit the $130 surcharge for filing the declaration later than thirty months after the priority date.

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Dennis Hill	: DECISION ON REQUEST FOR
Patent Number	: 7604534	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/567,585	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **61** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of	:	
GUTIERREZ, Gilles et al.	:	
Application No.: 10/567,590	:	DECISION
PCT No.: PCT/FR04/01990	:	
Int. Filing Date: 23 July 2004	:	ON PETITION UNDER
Priority Date: 25 July 2003	:	
Docket No.: 475.003	:	37 CFR 1.137(b)
For: STEROID DERIVATIVES AND USE	:	
THEREOF AS MEDICAMENTS	:	

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 06 February 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

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11 APR 2008

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

In re Application of:	:	
MENG, Jie	:	
U.S. Application No.: 10/567,624	:	DECISION
PCT No.: PCT/CN04/00913	:	
International Filing Date: 06 August 2004	:	
Priority Date: 08 August 2003	:	
Atty Docket No.: 011462-9003-00	:	
For: MULTI-FUNCTIONAL EXERCISE	:	
BICYCLE	:	

This decision is issued in response to the "Response To Communication Regarding Declaration" filed 04 January 2008, treated herein as a request to accept the declaration filed on 11 April 2007 under 37 CFR 1.497. No petition fee is required.

BACKGROUND

The procedural background for this application was set forth in the Communication mailed by this Office on 04 December 2007. That Communication indicated that the declaration filed 11 April 2007, executed by Jie MENG, could not be accepted without a statement clarifying why such inventor had previously filed herein a separate declaration that identified an additional inventor, Jia Xiang ZHANG.

On 04 January 2008, applicant filed the "Response To Communication Regarding Declaration" considered herein.

DISCUSSION

The present submission includes a statement confirming that the previously filed declaration that named as inventors both Jie MENG and Jia Xiang ZHANG was submitted in error, that such error was based on the differences between the meaning and usage of the term "Applicant" between China and the United States, and that both Jie MENG and Jia Xiang ZHANG acknowledge that Jie MENG is the sole inventor herein. This submission is accepted as a proper response to the previous Communication. Accordingly, the declaration filed 11 April 2007, which, consistent with the international application, names Jie MENG as the sole inventor herein, may now be accepted in compliance with 37 CFR 1.497.

CONCLUSION

Applicant's request for acceptance under 37 CFR 1.497 of the declaration filed on 11 April 2007 is **GRANTED**.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 11 April 2007.

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

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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

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OFFICE OF PETITIONS

In re Application of	:	
MEINHOLD, Matthias	:	
Application No. 10/567,632	:	DECISION ON PETITION
Filed: August 16, 2006	:	TO WITHDRAW
Attorney Docket No. **124319.00003**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 19, 2008.

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

A review of the file record indicates that the power of attorney to Quarles & Brady LLP has been revoked by the assignee of the patent application on March 06, 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: **CARLTON FIELDS, P.A.**
P.O. BOX 3239
TAMPA, FL 33601-3239

UNITED STATES PATENT AND TRADEMARK OFFICE

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CARLTON FIELDS, P.A.
ATTN: IP DEPT.
P.O. BOX 3239
TAMPA, FL 33601-3239

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MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
MEINHOLD, Matthias et al.	:	
Application No. 10/567,632	:	DECISION ON PETITION
Filed: August 16, 2006	:	TO WITHDRAW
Attorney Docket No. **54167-37206**	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 04, 2009.

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

A review of the file record indicates that the power of attorney to Patent Law Professionals has been revoked by the assignee of the patent application on May 01, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **NANCY J. FLINT, ATTORNEY AT LAW, P.A.**
1844 N. NOB HILL ROAD, #424
PLANTATION FL 33322

UNITED STATES PATENT AND TRADEMARK OFFICE

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07 JUL 2006

John P. Musone
Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

In re Application of TIEMANN Application No.: 10/567,667 PUT No.: PCT/EP04/07333 Int. Filing Date: 05 July 2004 Priority Date: 11 August 2003 Attorney Docket No.: 2003P09584WOUS For: GAS TURBINE HAVING A SEALING ELEMENT BETWEEN THE VANE AND THE MOVING BLADE RING OF THE TURBINE PART	DECISION ON PETITION UNDER 37 CFR 1.43

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. The declaration filed 09 February 2006 is being treated as a request for status pursuant to 37 CFR 1.43. No petition fee is required.

BACKGROUND

On 05 July 2004, applicant filed the international application, which claimed a priority date of 11 August 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 March 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, 11 February 2006.

On 09 February 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, a preliminary amendment, an Information Disclosure Statement, an assignment document for recording and a combined declaration and power of attorney executed by Iris Oltmanns as the legal representative of inventor Peter Tiemann who was identified as comatose.

DISCUSSION

Pursuant to 37 CFR 1.43, first sentence:

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.

In addition, 37 CFR 1.497(b)(2) states:

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

A review of the filed declaration finds that applicant has satisfied both of these regulations and it is proper to grant applicant's request at this time.

CONCLUSION

Applicant's request for status under 37 CFR 1.43 is **GRANTED**.

This application will be given an international application filing date of 05 July 2004 and a date of **09 February 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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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

In re Application of
Yoshiharu **WAKAO, et al.**
Application No. 10/567,682
Filed: February 9, 2006
Attorney Docket No. **330700US0PCT**

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 7, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **BIRCH STEWART KOLASCH & BIRCH** has been revoked by the assignee of the patent application on September 24, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

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

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

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OFFICE OF PETITIONS

ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK NY 10017

In re Application of
Vladimir Nikolaevich Larin
Application No. 10/567,695
Filed: February 3, 2006
Attorney Docket No. 207,156

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 15, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-3213.

This application is being referred to Technology Center AU 3676 for appropriate action by the Examiner in the normal course of business on the reply received.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 06/03/2010

Applicant	: Kazutoshi Kojima	: DECISION ON REQUEST FOR
Patent Number	: 7635868	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/567,729	: 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 **638** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Cooley Godward Kronish, LLP
Attn: Patent Group
Suite 1100
777 – 6th Street, NW
Washington, DC 20001

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APR 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Gyula Vigh et al.	:	
Application No. 10/567,743	:	DECISION ON
Filed: August 21, 2007	:	PETITION TO WITHDRAW
Attorney Docket No. LIFT-056/00US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 30, 2009.

The request is **APPROVED**.

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

The request was signed by Thomas A. Blinka on behalf of all attorneys/agents associated with customer number 58249. All attorneys/agents associated with customer number 58249 have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to address of the first signing inventor at the first copied address below, since no assignee has properly intervened in this application. A courtesy copy of this decision will be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application, the proper power of attorney documents and/or a Statement under 37 CFR 3.73(b) must be submitted.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Gyula Vigh
3369 Tamu
College Station, TX 77840

cc: Wayne Bellman
Life Therapeutics Ltd.
Company Matters Pty Ltd.
Level 12, 680 George Street
Sydney, NSW Australia 2000

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/567,743	08/21/2007	Gyula Vigh	LIFT-056/00US

CONFIRMATION NO. 5360

POWER OF ATTORNEY NOTICE

58249
COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

OC000000035621543

Date Mailed: 04/22/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/30/2009.

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

/kainabinet/

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

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 07/08/2010

Applicant	: Noel Cantenot	: DECISION ON REQUEST FOR
Patent Number	: 7643506	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/567,751	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/10/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **955** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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0 8 MAY 2007

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

In re Application of HARBIGE et al	:	
U.S. Application No.: 10/567,778	:	
PCT Application No.: PCT/GB2004/003524	:	
Int. Filing Date: 13 August 2004	:	DECISION
Priority Date Claimed: 18 August 2003	:	
Attorney Docket No.: 604-770	:	
For: TREATMENT OF NEURODEGENERATIVE CONDITIONS	:	

This is in response to applicant's "Rule 47 Petition" filed 09 February 2007.

BACKGROUND

On 13 August 2004, applicant filed international application PCT/GB2004/003524, which claimed priority of an earlier United Kingdom application filed 18 August 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 18 February 2006.

On 09 February 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 10 August 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 09 February 2007, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2)

factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors, each on his own behalf and on behalf of the nonsigning inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Mohammed Sharief refuses to sign the application papers. Although the petition contains sufficient evidence of Dr. Sharief's refusal to cooperate (see statement of Erika Szedon), the petition does not illustrate that a bona fide attempt was made to present a complete copy of the application papers (including specification, claims, drawings, and oath/declaration) to Dr. Sharief prior to his refusal. Ms. Szedon's statement only demonstrates that Dr. Sharief was presented with declaration and assignment documents. Petitioner is advised that if it cannot be shown that a complete copy of the application papers was presented to Dr. Sharief prior to the 28 November 2006 meeting with Ms. Szedon, then petitioner must demonstrate both the presentation of a complete copy of the application papers to Dr. Sharief and Dr. Sharief's refusal to sign subsequent to such presentation.

With regard to item (3) above, applicant is advised that effective 22 November 2004, the fee for a petition under 37 CFR 1.47 increased to $200.00. Any deficiency in the petition fee will be charged to Deposit Account No. 14-1140 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

1 2 DEC 2007

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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

In re Application of HARBIGE et al	:	
U.S. Application No.: 10/567,778	:	
PCT Application No.: PCT/GB2004/003524	:	
Int. Filing Date: 13 August 2004	:	DECISION
Priority Date Claimed: 18 August 2003	:	
Attorney Docket No.: 604-770	:	
For: TREATMENT OF NEURODEGENERATIVE	:	
CONDITIONS	:	

This is in response to applicant's "Renewed Petition for Filing a Declaration Under 37 C.F.R. § 1.47(a) by Applicants on Behalf of a Non-Signing Inventor" filed 03 December 2007.

BACKGROUND

On 13 August 2004, applicant filed international application PCT/GB2004/003524, which claimed priority of an earlier United Kingdom application filed 18 August 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 18 February 2006.

On 09 February 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 10 August 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 09 February 2007, applicant filed a petition under 37 CFR 1.47(a).

On 08 May 2007, this Office mailed a decision dismissing the 09 February 2007 petition.

On 03 December 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 (1), (3), and (4) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Mohammed Sharief 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 Sharief for signature (see affidavit of Erika Szedon, ¶11 and Exhibit K; see also affidavit of Tariq Osman, ¶7 and Exhibit D). Furthermore, the petition sufficiently illustrates that Sharief refuses to sign. In particular, Sharief has failed to reply to personal messages (see affidavit of Paul Mussenden, ¶5), postal mail (see Szedon affidavit, ¶11; see also Osman affidavit, ¶7), and telephone calls (see affidavit of Emma Spencer, ¶4; see also Osman affidavit, ¶¶5-6). Thus, it can be concluded with reasonable certainty that Sharief refuses to join in the application.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 13 August 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 09 February 2007.

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

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

1 2 DEC 2007

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Mohammed Sharief
2-B Mainridge Road
Chislehurst, Kent
BR7 6DW
England

In re Application of HARBIGE et al
U.S. Application No.: 10/567,778
PCT Application No.: PCT/GB2004/003524
Int. Filing Date: 13 August 2004
Priority Date Claimed: 18 August 2003
For: TREATMENT OF NEURODEGENERATIVE CONDITIONS

Dear Mohammed Sharief :

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.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office
Telephone: 571-272-3303
Facsimile: 571-273-0459

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203
Attorney Docket No.: 604-770

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17 JAN 2008

WOODARD, EMHARDT, MORIARTY,
MCNETT & HENRY LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS IN 46204-5137

In re Application of:	:	
DER RUITER, Ernest	:	DECISION ON PETITION
U.S. Application No.: 10/567,794	:	
PCT No.: PCT/EP2004/008314	:	
International Filing Date: 24 July 2004	:	
Priority Date: 11 August 2003	:	
Atty Docket No.: 8312-7/05.1816.6.do	:	
For: ACTIVATED CHARCOAL PRODUCTION	:	

This decision is issued in response to the "Request To Withdraw Holding Of Abandonment" filed 07 January 2008, treated herein as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 24 July 2004, applicant filed international application PCT/EP2004/008314. The international application claimed a priority date of 11 August 2003, and it designated the United States. On 24 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., 11 February 2006.

On 09 February 2006, applicant 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, an executed declaration, and an English translation of the international application as filed.

On 11 August 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a translation of the international application as filed and the processing fee for filing such translation later than thirty months after the priority date were required.

On 11 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 07 January 2008, applicant filed the petition considered herein. The petition asserts that on 18 September 2006 applicant filed a timely and proper response to the Notification Of Missing Requirements, including a translation of the international application as filed, and that the holding of abandonment should therefore be withdrawn. The petition is accompanied by evidence of the previous submission, including copies of the materials filed and a return postcard that itemizes these materials and bears a USPTO receipt stamp dated 18 September 2006.

DISCUSSION

As noted above, the present petition includes a copy of the English translation purportedly filed on 18 September 2006, as well as a copy of the return postcard that itemizes these materials and bears a USPTO receipt stamp dated 18 September 2006. In addition, USPTO records confirm receipt of the $130 processing fee included with the 18 September 2006 submission on 18 September 2006. Based on the statements in the present petition, the attached return postcard, and USPTO records regarding the processing fee payment, it is concluded that the materials accompanying the present petition, including the English translation of the international application as filed, were originally filed herein on 18 September 2006 as a timely response to the Notification Of Missing Requirements mailed 11 August 2006.

The Notification of Abandonment mailed 11 December 2007, based as it was on applicants' purported failure to file a timely response to the Notification Of Missing Requirements, is appropriately vacated.

Moreover, a review of the application file reveals that the original national stage materials filed on 09 February 2006 included an English translation of the original PCT filing text. Accordingly, the Notification Of Missing Requirements mailed 11 August 2006, which indicated that a translation of the original international application had not been submitted, is also appropriately vacated.

Based on applicant's 09 February 2006 filing of an English translation of the international application, the $130 processing fee for filing the English translation later than thirty months after the priority date was not required herein. Such processing fee is therefore appropriately refunded to applicant.

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 11 December 2007 and the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 11 August 2006 are hereby **VACATED**.

The application file reveals that an English translation of the original international application was included in the application materials filed 09 February 2006.

The $130 processing fee for filing the English translation later than thirty months after the priority date will be refunded to applicant.

This application is being returned to the National Stage Processing Branch of the Office of PCT operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 09 February 2006.

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

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Technology Center 2100

STEVENS, DAVIS, MILLER & MOSHER, LLP
1615 L. STREET N.W.
SUITE 850
WASHINGTON DC 20036

In re Application of:
Seidel et al.
Application No. **10/567,825**
Filed: **September 18, 2006**
For: **TIME MONITORING OF PACKET RETRANSMISSIONS DURING SOFT HANDOVER**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed June 21, 2006 under M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) 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(i);

(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. A search made by a foreign patent office satisfies this requirement;

(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.

In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is

defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient in that it does not comply with item (E) above. The eight "3GPP" references cited by the Petitioner as deemed most closely related to the subject matter encompassed by the claims do not have an associated detailed discussion of those references.

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

John Follansbee
WQAS
Technology Center 2100
571-272-3964

MAILED

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TECHNOLOGY CENTER 2100

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STEVENS, DAVIS, MILLER & MOSHER, LLP
1615 L. STREET, N.W.
SUITE 850
WASHINGTON, DC 20036

In re Application of: Seidel, et al.
Application No. 10/567,825
Filed: February 10, 2006
For: TIME MONITORING OF PACKET RETRANSMISSIONS DURING SOFT HANDOVER

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the renewed petition filed May 11, 2007, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special. The original petition filed June 21, 2006 was dismissed in a decision mailed March 21, 2007.

The renewed Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) 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;

(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.

Note, Petitioner's explanation regarding the eight "3GPP" references is acceptable to overcome the insufficiency set forth in the decision mailed March 21, 2007. However, the renewed petition filed May 11, 2007 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), a complete detailed discussion of the identified most closely related references has not been provided with the necessary specificity required under 37 CFR 1.111 (b) and (c). Petitioner should ensure that each reference identified to be "most closely related" (as set forth above) be provided with a corresponding discussion directed to how the language of ***each of*** the independent claims is specifically distinguishable and patentable from each the references provided in requirement (d) above. Specifically, Petitioner identifies the following references: WO 02/37872 and US 2002/019965, to be "most closely related" (see petition filed June 21, 2006 at page 4 line 12 – page 6 line 5, and in the instant petition filed May 11, 2007 at page 2 line 15 – line 21 and page 7 line 1 – page 8 line 17). However, the discussion directed to how the language of independent claims 40 and 72 patentably defines over these two references is not provided in either petition filed.

Accordingly, the renewed Petition to Make Special is **DISMISSED**.

Since this deficiency was not identified to Petitioner in the decision mailed on March 21, 2007, Petitioner is given one last opportunity to perfect the petition. Any request for reconsideration MUST be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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TECHNOLOGY CENTER 2100

STEVENS, DAVIS, MILLER & MOSHER, LLP
1615 L. STREET, N.W.
SUITE 850
WASHINGTON, DC 20036

In re Application of: Seidel, et al.
Application No. 10/567,825
Filed: February 10, 2006
For: TIME MONITORING OF PACKET RETRANSMISSIONS DURING SOFT HANDOVER

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the second renewed petition filed August 14, 2007, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special. The original petition filed June 21, 2006 was dismissed in a decision mailed March 21, 2007. A renewed petition was filed on May 11, 2007 and a subsequent dismissal was mailed June 15, 2007.

The second renewed Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) 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;

(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.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have now been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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28 NOV 2006

Dickstein Shapiro LLP
1177 Avenue of the Americas (6th Avenue)
New York, NY 10036-2714

In re Application of NAKAMURA, Takeshi Application No.: 10/567,830 PCT No.: PCT/JP04/10640 Int. Filing Date: 27 July 2004 Priority Date: 12 August 2003 Docket No.: M1071.1960 For: DIFFUSER AND SPEAKER USING THE SAME	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "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 26 September 2006 is **GRANTED**.

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

Applicant has 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. 50-2215, 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 26 September 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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RUTAN & TUCKER, LLP
611 ANTON BLVD., SUITE 1400
COSTA MESA CA 92626

COPY MAILED
OCT 2 2 2008
OFFICE OF PETITIONS

In re Application of	:	
Dusan MILIKOVIC, et al	:	
Application No. 10/567,868	:	DECISION ON PETITION
Filed: September 27, 2006	:	TO WITHDRAW
Attorney Docket No. 101267.0040US	:	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 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. 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.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT FISH
FISH & ASSOCIATES, PC
2603 MAIN STREET, SUITE 1050
IRVINE, CA 92614

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RUTAN & TUCKER, LLP
611 ANTON BLVD., SUITE 1400
COSTA MESA, CA 92626

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NOV 2 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Dusan MILJKOVIC, et al	:	
Application No. 10/567,868	:	DECISION ON PETITION
Filed: September 27, 2006	:	TO WITHDRAW
Attorney Docket No. 101267.0040US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed October 28, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Todd Wight does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT FISH
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

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SEP 29 2008

In re Application of	:	
Dusan Miljkovic, et al.	:	
Application No. 10/567,875	:	DECISION ON PETITION
Filed: January 10, 2007	:	TO WITHDRAW
Attorney Docket No. 101267.0043US	:	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 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, ***attorney and agents left this customer number 3/3/07. It was agreed that attorney or his agents would file new powers of attorney for requested client transfers. Attorney has not filed a new power of attorney or has not changed their correspondence address. Therefore, we request withdrawal as power of attorney, and that the correspondence address be changed***, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Robert Fish**
Fish & Associates, PC
2603 Main Street, Suite 1050
Irvine, CA 92614

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OFFICE OF PETITIONS

Rutan & Tucker, LLP
611 Anton Blvd.
Suite 1400
Costa Mesa, CA 92626

In re Application of	:	
Dusan Miljkovic, et al.	:	
Application No. 10/567,875	:	DECISION ON PETITION
Filed: January 10, 2007	:	TO WITHDRAW
Attorney Docket No. 101267.0043US	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 1, 2008.

The request is **APPROVED**.

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

The request was signed by Todd W. Wight on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed October 10, 2008 that requires a reply from the applicant.

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Dusan Miljkovic**
4655 Ramsay Avenue
San Diego, CA 92122

cc: **Robert Fish**
Fish & Associates, PC
2603 Main Street, Suite 1050
Irvine, CA 92614

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/567,875	01/10/2007	Dusan Miljkovic	101267.0043US

CONFIRMATION NO. 7196

POWER OF ATTORNEY NOTICE

34284
Rutan & Tucker, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

OC000000032888479

Date Mailed: 10/31/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/01/2008.

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

/tswilliams/

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

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PRICE HENEVELD COOPER DEWITT
& LITTON, LLP
695 KENMOOR, S.E.
P.O. BOX 2567
GRAND RAPIDS, MI 49501

MAILED

NOV 23 2009

OFFICE OF PETITIONS

In re Patent No. 7,370,455	:	
Application No. 10/567,885	:	
Filed: February 09, 2006	:	NOTICE UNDER 37 CFR. 1.28(c)
Attorney Docket No. OLI02 P-361	:	
	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On July 31, 2008, the court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998)**.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Michelle R. Eason at (571) 272-4231.

Thurman K Page

Thurman Page
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,898	10/03/2006	Paul Francicus Marie Verstraeten	T-155	7284

34539 7590 09/18/2009
MARK ZOVKO
36504 28TH AVE S.
FEDERAL WAY, WA 98003

EXAMINER
KASTLER, SCOTT R

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
09/18/2009	PAPER

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

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

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bc

Mailed: SEP 18 2009

In re application of	:	
Verstraeten	:	DECISION ON
Serial No. 10/567,898	:	PETITION
Filed: October 03, 2006	:	
For: LANCE DEVICE WITH RECIPROCATING DRIVE	:	

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed March 25, 2009.

On March 25, 2009, a first non-final office action was mailed to the Applicant. Applicant responded to this office action with a response and amendment filed on June 24, 2009. An Advisory Action refusing entry of the amendment of June 24, 2009 was mailed on July 08, 2009. On July 22, 2009, the instant petition under 37 CFR 1.181 was timely filed to formally request the withdrawal of finality of the March 25, 2009 office action.

DECISION

It is clear from the record that the office action of March 25, 2009 was a non-final office action, as noted on the cover sheet of that office action and the non-presence of any final rejection form paragraph in this office action. Hence, the examiner clearly erred in refusing entry of the amendment or June 24, 2009. Since no final rejection is present in this application, the petition for withdrawal of finality is **DISMISSED.**

This application is being forwarded to the examiner for full consideration of the response and amendment submitted on June 24, 2009. An office action on the merits will follow in due course.

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

MARK ZOVKO
36504 28TH AVE S.
FEDERAL WAY, WA 98003

07 JUN 2006

United States Patent and Trademark Office

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REISING, ETHINGTON, BARNES, KISSELLE, P.C.
P O BOX 4390
TROY MI 48099-4390

In re Application of	:	
Schröder	:	
Application No.: 10/567,916	:	DECISION
PCT No.: PCT/EP03/08776	:	
Int. Filing Date: 07 August 2003	:	ON
Earlier Priority Date: N/A	:	
Attorney Docket No.: 7622-3001-1	:	PETITION
For: Urinal	:	

The petition to revive under 37 CFR 1.137(b) filed 02 May 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation 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), the surcharge under 37 CFR 1.492(h) and the processing fee under 37 CFR 1.492(i).

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

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

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WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

Mail Date: 04/27/2010

Applicant	: Marinus Frans van der Maas	: DECISION ON REQUEST FOR
Patent Number	: 7608136	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/567,949	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **520** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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26 FEB 2007

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

In re Application of OTSUKI et al	:	
U.S. Application No.: 10/567,968	:	
PCT Application No.: PCT/JP2004/011853	:	
Int. Filing Date: 10 August 2004	:	
Priority Date Claimed: 12 August 2003	:	DECISION
Attorney Docket No.: 060131	:	
For: ANTIVIRAL AGENT AND FIBERS AND	:	
ANTIVIRAL MEMBERS USING THE	:	
SAME	:	

This is in response to applicant's "Statement Establishing the Proprietary Interest by Person Signing on Behalf of Non-Signing Inventor" filed 28 November 2006, which is being treated as a petition under 37 CFR 1.47(a).

BACKGROUND

On 10 August 2004, applicant filed international application PCT/JP2004/011853, which claimed priority of an earlier Japan application filed 12 August 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 17 February 2005. The thirty-month period for paying the basic national fee in the United States expired on 12 February 2006.

On 17 February 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 30 August 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 28 November 2006, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors each on his/her own behalf and on behalf of the nonsigning inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where 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 Masami Yakura cannot be found. However, the petition does not sufficiently establish that a diligent effort was made to locate Yakura. Applicant should supply an affidavit signed by the person with firsthand knowledge of the various attempts to reach Yakura along with any supporting documentary evidence.

With regard to item (3) above, the requisite petition fee has not been provided.

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)".

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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24 APR 2007

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

In re Application of OTSUKI et al	:	
U.S. Application No.: 10/567,968	:	
PCT Application No.: PCT/JP2004/011853	:	
Int. Filing Date: 10 August 2004	:	
Priority Date Claimed: 12 August 2003	:	DECISION
Attorney Docket No.: 060131	:	
For: ANTIVIRAL AGENT AND FIBERS AND ANTIVIRAL MEMBERS USING THE SAME	:	

This is in response to applicant's "Renewed Petition Under 37 CFR 1.47(a)" filed 12 April 2007.

BACKGROUND

On 10 August 2004, applicant filed international application PCT/JP2004/011853, which claimed priority of an earlier Japan application filed 12 August 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 17 February 2005. The thirty-month period for paying the basic national fee in the United States expired on 12 February 2006.

On 17 February 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 30 August 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 28 November 2006, applicant a petition under 37 CFR 1.47(a).

On 26 February 2007, this Office mailed a decision dismissing the 28 November 2006 petition.

On 12 April 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 (1) and (4) above.

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 Masami Yakura cannot be found. However, the petition does not sufficiently establish that a diligent effort was made to locate Yakura. Although applicant has supplied what appear to be copies of letters sent to Yakura, a statement from the person with firsthand knowledge of the various attempts to reach Yakura has not been furnished. Such statement should detail all efforts to reach Yakura and should specify the results of those efforts. Thus, it would not be reasonable to conclude at the present time that Yakura 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. 01-2340 as authorized by applicant.

CONCLUSION

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

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

available 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)".

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.

BryanLin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

29 JUN 2007

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ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

In re Application of OTSUKI et al	:	
U.S. Application No.: 10/567,968	:	
PCT Application No.: PCT/JP2004/011853	:	
Int. Filing Date: 10 August 2004	:	
Priority Date Claimed: 12 August 2003	:	DECISION
Attorney Docket No.: 060131	:	
For: ANTIVIRAL AGENT AND FIBERS AND ANTIVIRAL MEMBERS USING THE SAME	:	

This is in response to applicant's "Renewed Submission Under 37 CFR 1.47(a)" filed 21 June 2007.

BACKGROUND

On 10 August 2004, applicant filed international application PCT/JP2004/011853, which claimed priority of an earlier Japan application filed 12 August 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 17 February 2005. The thirty-month period for paying the basic national fee in the United States expired on 12 February 2006.

On 17 February 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 30 August 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 28 November 2006, applicant a petition under 37 CFR 1.47(a).

On 26 February 2007, this Office mailed a decision dismissing the 28 November 2006 petition.

On 12 April 2007, applicant filed a renewed petition under 37 CFR 1.47(a).

On 24 April 2007, this Office mailed a decision dismissing the 12 April 2007 petition.

On 21 June 2007, applicant filed the present second renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Applicant has previously satisfied items (1), (3) and (4) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where 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 Masami Yakura cannot be found. However, the petition does not sufficiently demonstrate that a diligent effort was made to locate Yakura. Petitioner has supplied evidence (see affidavit of Kazuo Wakabayashi and copies of letters) of attempts to reach Yakura by a single method, i.e. postal mail. However, the petition does not establish that petitioner tried to reach Yakura by other methods, e.g. by telephone, by electronic mail, by searching public directories, and by contacting Yakura's former employer and co-workers. Thus, it would not be reasonable to conclude at the present time that a diligent effort was made to locate Yakura.

CONCLUSION

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

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

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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0 4 JAN 2008

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

In re Application of OTSUKI et al	:	
U.S. Application No.: 10/567,968	:	
PCT Application No.: PCT/JP2004/011853	:	
Int. Filing Date: 10 August 2004	:	
Priority Date Claimed: 12 August 2003	:	DECISION
Attorney Docket No.: 060131	:	
For: ANTIVIRAL AGENT AND FIBERS AND	:	
ANTIVIRAL MEMBERS USING THE	:	
SAME	:	

This is in response to applicant's "Renewed Petition Under 37 CFR 1.47(a)" filed 28 December 2007.

BACKGROUND

On 10 August 2004, applicant filed international application PCT/JP2004/011853, which claimed priority of an earlier Japan application filed 12 August 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 17 February 2005. The thirty-month period for paying the basic national fee in the United States expired on 12 February 2006.

On 17 February 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 30 August 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 28 November 2006, applicant a petition under 37 CFR 1.47(a).

On 26 February 2007, this Office mailed a decision dismissing the 28 November 2006 petition.

On 12 April 2007, applicant filed a renewed petition under 37 CFR 1.47(a).

On 24 April 2007, this Office mailed a decision dismissing the 12 April 2007 petition.

On 21 June 2007, applicant filed a second renewed petition under 37 CFR 1.47(a).

On 29 June 2007, this Office mailed a decision dismissing the 21 June 2007 petition.

On 28 December 2007, applicant filed the present third renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Applicant has previously satisfied items (1), (3) and (4) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.
>
> * * *
>
> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is

> an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Masami Yakura cannot be found. However, the petition does not sufficiently demonstrate that a diligent effort was made to locate Yakura. Petitioner has supplied evidence (see affidavit of Kazuo Wakabayashi and copies of letters) of attempts to reach Yakura by a single method, i.e. postal mail. Although the present renewed petition contains an affidavit which states that "considerable efforts" were made to reach Yakura (see 03 December 2007 affidavit of Kazuo Wakabayashi), no details of such considerable efforts have been provided. For example, petitioner has not established that petitioner tried to reach Yakura by other methods, e.g. by telephone, by electronic mail, by searching public directories, and by contacting Yakura's current employer. Thus, it would not be reasonable to conclude at the present time that Yakura cannot be located after diligent effort. Certain statements in the 03 December 2007 affidavit of Kazuo Wakabayashi suggest that Yakura may be refusing to sign. However, such a refusal has not been alleged, and the required showing (as detailed above) to support the assertion of a refusal to sign has not been made.

CONCLUSION

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

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

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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29 JUL 2008

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

In re Application of OTSUKI et al	:	
U.S. Application No.: 10/567,968	:	
PCT Application No.: PCT/JP2004/011853	:	
Int. Filing Date: 10 August 2004	:	
Priority Date Claimed: 12 August 2003	:	DECISION
Attorney Docket No.: 060131	:	
For: ANTIVIRAL AGENT AND FIBERS AND ANTIVIRAL MEMBERS USING THE SAME	:	

This is in response to applicant's "Renewed Petition Under 37 CFR 1.47(a)" filed 07 July 2008.

BACKGROUND

On 10 August 2004, applicant filed international application PCT/JP2004/011853, which claimed priority of an earlier Japan application filed 12 August 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 17 February 2005. The thirty-month period for paying the basic national fee in the United States expired on 12 February 2006.

On 17 February 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 30 August 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 28 November 2006, applicant a petition under 37 CFR 1.47(a).

On 26 February 2007, this Office mailed a decision dismissing the 28 November 2006 petition.

On 12 April 2007, applicant filed a renewed petition under 37 CFR 1.47(a).

On 24 April 2007, this Office mailed a decision dismissing the 12 April 2007 petition.

On 21 June 2007, applicant filed a second renewed petition under 37 CFR 1.47(a).

On 29 June 2007, this Office mailed a decision dismissing the 21 June 2007 petition.

On 28 December 2007, applicant filed a third renewed petition under 37 CFR 1.47(a).

On 04 January 2008, this Office mailed a decision dismissing the 28 December 2007 petition.

On 07 July 2008, applicant filed the present fourth renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Applicant has previously satisfied items (1), (3) and (4) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where 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 Masami Yakura cannot be found. Petitioner has sufficiently demonstrated that a diligent effort was made to locate Yakura. Petitioner has supplied evidence of multiple attempts to reach Yakura by postal mail and by telephone (see affidavits of Kazuo Wakabayashi). Thus, it can be concluded with reasonable certainty that Yakura cannot be located after diligent effort.

CONCLUSION

For the reasons above, the fourth renewed petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 10 August 2004 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 28 November 2006.

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

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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29 JUL 2008

Masami Yakura
c/o Mochigase Electrical Equipment Co., Ltd.
7-2 Mochigase, Mochigase-cho, Yazu-gun
Tottori 689-1201
JAPAN

In re Application of OTSUKI et al
U.S. Application No.: 10/567,968
PCT Application No.: PCT/JP2004/011853
Int. Filing Date: 10 August 2004
Priority Date Claimed: 12 August 2003
For: ANTIVIRAL AGENT AND FIBERS AND ANTIVIRAL MEMBERS USING THE SAME

Dear Masami Yakura:

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.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office
Telephone: 571-272-3303
Facsimile: 571-273-0459

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006
Attorney Docket No.: 060131

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SEP 27 2007

OFFICE OF PETITIONS

Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
Mclean, VA 22102

In re Application of	:	
Blerim Rexha et al.	:	
Application No. 10/567,972	:	DECISION ON PETITION
Filed: August 22, 2006	:	TO WITHDRAW
Attorney Docket No. 449122086100	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on August 7, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690

2 4 FEB 2009

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ROBERT D. SHEDD
THOMSON LICENSING, LLC
PO BOX 5312
PRINCETON NJ 08543-5312

In re Application of: GRIMES	:	DECISION
U.S. Application No.: 10/568,003	:	
PCT Application No.: PCT/US2004/001573	:	ON
Int. Filing Date: 20 January 2004	:	
Priority Date: 13 August 2003	:	PETITION
Atty Docket No.: PU030240	:	
For: Pre-Processing of Descrambling Data to Reduce Channel-Change Time	:	UNDER
	:	37 CFR 1.137(b)

BACKGROUND

On 20 January 2004, applicant filed international application PCT/US2004/001573, which designated the U.S. and claimed a priority date of 13 August 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 13 February 2006. On 10 February 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission did not include an executed oath or declaration in compliance with 37 CFR 1.497(a) and (b). On 31 August 2006, PCT/DO/EO/905 was mailed, requiring an executed oath or declaration in compliance with 37 CFR 1.497 (a) and (b). On 01 November 2006, the application became abandoned as to the United States of America for failure to respond to the PCT/DO/EO/905.

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 under 37 CFR 1.17(m), (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer if the application was filed before 08 June 1995.

Regarding item (1), the required reply in the form of an executed declaration in compliance with 37 CFR 1.497(a) and (b) has been received.

Regarding item (2), the required petition fee has been received.

Regarding item (3), the petition includes the required statement.

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

CONCLUSION

For the reasons detailed above, 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 treatment in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

/Katherine Moran/
PCT Legal, Detailee
PCT Legal Office

Telephone: 571-272-6095

14 JUN 2006

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

Lynn J. Alstadt
Buchanan Ingersoll, PC
One Oxford Centre
301 Grant Street, 20th Floor
Pittsburgh, PA 15219-1410

In re Application of	:	
JUDKINS, et al.	:	
Application No.: 10/568,027	:	DECISION ON PETITION
PCT No.: PCT/US04/28557	:	
Int. Filing Date: 02 September 2004	:	UNDER 37 CFR 1.497(d)
Priority Date: 02 September 2003	:	
Atty. Docket No.: 060068	:	
For: METHOD AND APPARATUS FOR MAKING	:	
CELLULAR MATERIAL USING SLOW CURE	:	
ADHESIVES	:	

This decision is in response to applicant's "Request For Correction of Inventorship Under 37 CFR 1.48(a)" filed 27 March 2006 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a request under 37 CFR 1.497(d).

BACKGROUND

On 02 September 2004, applicant filed international application PCT/US04/28557, which claimed priority of an earlier application filed 02 September 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 02 March 2006.

On 10 February 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; a copy of the declaration filed with the international application and a First Preliminary Amendment.

On 27 March 2006, applicant filed the present request which is being treated as a petition under 37 CFR 1.497(d).

DISCUSSION

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

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

(2) the fee set forth in 37 CFR 1.17(i); and

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

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

Applicant has satisfied items (1) - (3).

Regarding item (4), as the declaration filed under PCT Rule 4.17 in the international application did not identify both inventors, applicant is required to file a compliant oath or declaration pursuant to 37 CFR 1.497(a) which identifies, and is executed by, both inventors.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons above, applicant's request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file any request for reconsideration. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

25 OCT 2006

Lynn J. Alstadt
Buchanan Ingersoll, PC
One Oxford Centre
301 Grant Street, 20th Floor
Pittsburgh, PA 15219-1410

In re Application of	:	
JUDKINS, et al.	:	
Application No.: 10/568,027	:	DECISION ON RENEWED
PCT No.: PCT/US04/28557	:	
Int. Filing Date: 02 September 2004	:	PETITION UNDER
Priority Date: 02 September 2003	:	
Atty. Docket No.: 060068	:	37 CFR 1.497(d)
For: METHOD AND APPARATUS FOR MAKING CELLULAR MATERIAL USING SLOW CURE ADHESIVES	:	

This decision is in response to applicant's "RENEWED PETITION UNDER 37 C.F.R. 1.497(d)" filed 31 July 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 14 June 2006, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.497(d). Applicant was afforded two months to file any request for reconsideration.

On 31 July 2006, applicant filed the present renewed petition.

DISCUSSION

As detailed in the decision mailed 14 June 2006, 37 CFR 1.497(d) [formally, 37 CFR 1.48] states in part: "If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application....applicant must submit:

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

(2) the fee set forth in 37 CFR 1.17(i); and

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

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

Applicant previously satisfied items (1) - (3).

Regarding item (4), applicant has presently filed a compliant oath or declaration pursuant to 37 CFR 1.497(a) which identifies, and is executed by, both inventors.

As such, applicant has satisfied the remaining concern from the decision mailed 14 June 2006.

CONCLUSION

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

A review of the application papers reveals that applicant has now completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application has an international application filing date of 02 September 2004 and will be given a date of **31 July 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,033	09/25/2006	Toshihiro Nakajima	SPO-125	2899

7590 12/17/2008
SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614-2950

EXAMINER
LIU, SAMUEL W

ART UNIT	PAPER NUMBER
1656	

MAIL DATE	DELIVERY MODE
12/17/2008	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.

N.F.

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

Tomi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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THOMSON LICENSING LLC
P.O. BOX 5312
TWO INDEPENDENCE WAY
PRINCETON NJ 08543-5312

MAILED

APR 28 2009

OFFICE OF PETITIONS

In re Application of Carl Christensen et al Application No. 10/568,046 Filed: February 10, 2006 Attorney Docket No. PU030244	: : : : :	DECISION ON PETITION

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed September 23, 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 2111 for appropriate action by the Examiner in the normal course of business on the reply received March 27, 2009.

Karen Creasy

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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HOWREY LLP-CA
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

MAILED

MAR 15 2010

OFFICE OF PETITIONS

In re Application of	:	
E. T. Lim	:	
Application No. 10/568,050	:	DECISION ON PETITION
Filed: August 14, 2006	:	
Attorney Docket No. 039890010PCUS00	:	

This is a decision on the petition under 37 CFR 1.182, filed, December 30, 2009, to change the name of inventor "Eng T. Lim" to – E. T. Lim --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

Irvin Dingle
Petition Examiner
Office of Petitions

Attachment: A corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/568,050	08/14/2006	3711	1045	039890010PCUS00	21	2

CONFIRMATION NO. 6156

CORRECTED FILING RECEIPT

27194
HOWREY LLP-CA
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

OC000000040560809

Date Mailed: 03/15/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

E. T. Lim, Singapore, SINGAPORE;

Power of Attorney:
Viola Kung--41131

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/SG03/00211 09/05/2003

Foreign Applications

If Required, Foreign Filing License Granted: 09/28/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/568,050**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

GOLF TEE

Preliminary Class

473

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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26 JAN 2007

GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY, MAI B475
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398

In re Application of	:	DECISION ON
MILLER et al	:	
Application No.: 10/568,051	:	
PCT No.: PCT/US2004/026252	:	
Int. Filing Date: 11 August 2004	:	PETITION
Priority Date: 11 August 2003	:	
Attorney Docket No.: PR60436USW	:	
For: PHARMACEUTICAL METERED DOSE	:	
INHALER AND METHODS RELATING THERETO	:	UNDER 37 CFR 1.181

This is a decision on applicants' "SUBMISSION OF FORM PCT/IB/306" filed on 08 November 2006, which is being treated as a petition under 37 CFR 37 CFR 1.181 requesting that the PCT/IB/306 form was timely filed.

BACKGROUND

In a Notification communication from this office on 22 September 2006, the Office indicated that the executed declaration of the inventors was not acceptable at that time, in that the name of the first named inventor, GODFREY, Anne, Pauline, had been deleted in the declaration (this inventor was listed on the international application) and applicants had not provided proper documentation, such as PCT/IB/306, supporting such action.

On 08 November 2006, applicants filed this petition accompanied with the "NOTIFICATION OF THE RECORDING OF A CHANGE" Form PCT/IB/306.

DISCUSSION

A review of the file shows that the "NOTIFICATION OF THE RECORDING OF A CHANGE" Form PCT/IB/306 mailed on 10 February 2006 to the applicants from the IB. The Notification indicates that applicant/inventor GODFREY, Anne, Pauline had been removed from the record and this change was effected in accordance with PCT Rule 92*Bis*.

Accordingly, the declaration filed 10 February 2006 is accepted because applicants have provided a showing that the applicant/inventor removal was effected in accordance with PCT Rule 92*bis* prior to commencement of national stage application.

CONCLUSION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371 (c)(1), (c)(2), and (c)(4) date of this application is **10 February 2006**.

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

28 FEB 2006

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DAVID M. QUINLAN, P.C.
32 Nassau Street
Suite 300
Princeton, NJ 08542

In re Application of: MONTGOMERY, Eric., R. U.S. Application No.: 10/568,054 PCT No.: PCT/US2004/024070 International Filing Date: 28 July 2004 Priority Date: 28 July 2003 Attorney's Docket No.: 7800B.8005 For: COMPOSITIONS, METHODS, DEVICES, AND KITS FOR MAITAINING OR ENHANCING TOOTH WHITENING	DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition for revival under 37 CFR 1.137(b) filed 10 February 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

Applicant has now submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497, the search and examination fees, any applicable claims fees, and the surcharge for filing the oath or declaration later than thirty months after the priority date.

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

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19 JAN 2007

David M. Quinlan, P.C.
32 Nassau Street
Suite 300
Princeton NJ 08542

In re Application of: MONTGOMERY, Eric, R. U.S. Application No.: 10/568,054 PCT No.: PCT/US2004/024070 International Filing Date: 28 July 2004 Priority Date: 28 July 2003 Attorney's Docket No.: 7800B.8005 For: COMPOSITIONS, METHODS, DEVICES AND KITS FOR MAINTAINING OR ENHANCING TOOTH WHITENING	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This decision is issued in response to the "Petition Pursuant To PCT Article 14 Rule 4.15(b)" filed 06 October 2006, treated herein as a petition under 37 CFR 1.47(b) for acceptance of the application without the signature of the sole inventor. Applicant has been charged the required $200 petition fee.

BACKGROUND

On 28 July 2004, applicant filed international application PCT/US2004/024070. The application claimed a priority date of 28 July 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., 28 January 2006.

Applicant did not file the basic national fee prior to the expiration of the thirty-month deadline. Accordingly, the present application became abandoned at midnight on 28 January 2006.

On 10 February 2006, petitioner filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a petition for revival of the international application under 37 CFR 1.137(b).

On 28 February 2006, this Office issued a decision granting the petition for revival under 37 CFR 1.137(b).

On 06 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 in compliance with 37 CFR 1.497, the surcharge for filing the declaration later than thirty months after the priority date, and additional claims fees totaling $6,110 were required.

On 06 October 2006, petitioner filed a response to the Notification Of Missing Requirements. The response included payment of the required surcharge and extra claims fees, as well as the petition considered herein. The petition seeks acceptance of the application without the signature of the sole inventor, whom petitioner states has refused to execute the application papers.

It is noted that the petition refers to PCT Rule 4.15(b), which applies to acceptance of an international application without an inventor's signature; however, PCT Rule 4.15(b) does not apply to the signature requirement in a U.S. national stage application. Rather, where, as here, it is claimed that a sole inventor refuses to execute the declaration in a U.S. national stage application, the applicable regulation is 37 CFR 1.47(b). The petition has therefore been treated under this regulation.

DISCUSSION

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

Regarding item (1), petitioner has been charged the required $200 petition fee. Item (1) is therefore satisfied.

Regarding item (2), where it is asserted that the inventor has refused to execute the application papers, section 409.03(d) of the MPEP states that a "copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." Here, petitioner has provided copies of email communications apparently involving attempts to obtain the signature of the non-signing inventor. However, petitioner has not provided a firsthand statement from any of the persons involved in this correspondence, as necessary to confirm and clarify the context of this correspondence and the contents of the attachments thereto. Without clarifying firsthand statements, the email messages provided do not support a conclusion that the inventor has refused to execute the application papers (for example, who is Maria Woodrow, what specifically was Naomi Brickey requesting of her on 27 September 2006, and what, if any, response was received from her?) Petitioner has also not provided the required firsthand statement (with documentary support) confirming that a request for signature, accompanied by a copy of the complete application papers, has been forwarded to the non-signing at his last known

address, as required before a refusal to sign can be presumed. Based on the above, item (2) is not satisfied.

Regarding item (3), the petition does not include an express statement of the last known address of the nonsigning inventor. Item (3) is therefore not satisfied.

Regarding item (4), the petition does not include an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor. Item (4) is therefore not satisfied on the present record.

Regarding item (5), section 409.03(f) of the MPEP states the following:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that: (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

Here, it appears that the 37 CFR 1.47(b) applicant is Britesmile Professional, Inc., (Britesmile Professional), and that the assertion of proprietary interest is based on a chain of assignments. With respect to such a claim, the MPEP states the following:

> If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324).

The present petition includes a copy of an assignment apparently transferring rights in the present application from Britesmile, Inc. (Britesmile) and Britesmile Development, Inc. (Britesmile Development) to Britesmile Professional. However, the petition does not include evidence that the inventor assigned the application to either Britesmile or Britesmile Development. The petition therefore does not include the required evidence confirming a chain of title from the inventor to the 37 CFR 1.47(b) applicant. In addition, the petition does not include a statement under 37 CFR 3.73(b) that properly references previously recorded assignments or has copies of the relevant assignments attached thereto.[1] Accordingly, the present submission does not adequately demonstrate the required proprietary interest of the 37 CFR 1.47(b) applicant. Item (5) is therefore not satisfied on the present record.

---

[1] It is noted that statements under 37 CFR 3.73(b) statement were previously filed in this application on behalf of Britesmile Professional. However, the forms did not properly reference any recorded assignments herein, and it does not appear that copies of any such assignments were attached to the 3.73(b) statements. Accordingly, such statements are not effective for purposes of this petition, or for the purpose of changing the correspondence address of record herein.

Regarding item (6), the petition does not include the required express statement that granting of the present petition is necessary to preserve the rights of the 37 CFR 1.47(b) applicant. Item (6) is therefore not satisfied.

Based on the above, petitioner has failed to satisfy all the requirements for a grantable petition.

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)" and must include the materials required to satisfy items (2), (3), (4), (5), and (6) of a grantable petition, as discussed above and in the applicable sections of the MPEP.

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

A courtesy copy of this decision will be mailed to the address listed on the present petition; however, as discussed above, until a properly supported statement under 37 CFR 3.73(b) is submitted, petitioner's previously filed requests to change the correspondence address of record cannot be granted. The correspondence address of record herein therefore remains the address listed above.

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

cc:

NANCY QUAN
Britesmile Professional, Inc.
8550 Higuera Street
Culver City, CA 90232

UNITED STATES 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

NANCY QUAN
BriteSmile Professional, Inc.
8550 Higuera Street
Culver City, CA 90232

In re Application of: MONTGOMERY, Eric, R. U.S. Application No.: 10/568,054 PCT No.: PCT/US2004/024070 International Filing Date: 28 July 2004 Priority Date: 28 July 2003 Attorney's Docket No.: 7800B.8005 For: COMPOSITIONS, METHODS, DEVICES AND KITS FOR MAINTAINING OR ENHANCING TOOTH WHITENING	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(b)

In a decision mailed by this Office on 19 January 2007, the petition under 37 CFR 1.47(b) for acceptance of the application without the signature of sole inventor Eric R. MONTGOMERY was dismissed without prejudice for failure to satisfy the requirements of a grantable petition.

On 12 February 2007, petitioner filed the renewed petition considered herein. The renewed petition includes a declaration executed by the previously non-signing inventor Eric B. MONTGOMERY. Based on the submission of a declaration executed by the previously non-signing sole inventor, the petition under 37 CFR 1.47(b) is **DISMISSED AS MOOT**.

However, the declaration executed by the inventor is not in compliance with 37 CFR 1.497 in that it fails to properly identify the inventor herein. Specifically, the declaration identifies the inventor as Robert Eric MONTGOMERY, while the name of record for this inventor (as set forth in the published international application) is Eric. R. MONTGOMERY.

Section 605.04(b) of the Manual Of Patent Examining Procedure ("MPEP") states that:

> Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 35 U.S.C. 1.182 together with an appropriate petition fee.

In this case, the difference between the inventor's name in the published international application and the declaration appears to be more than a mere typographical error or a phonetic misspelling of the applicant's name. Accordingly, a petition under 37 CFR 1.182 to correct the name of record for the inventor is required before the present declaration can be accepted under 37 CFR 1.497. For such a petition to be grantable, applicant must provide the required petition fee and an explanation as to how the error in the inventor's name was made and that the error in the inventor's name was inadvertent and occurred without deceptive intent.[1]

Applicant has **TWO (2) MONTHS** from the mail date of the present decision to submit either: (1) a revised declaration in compliance with 37 CFR 1.497 in which the inventor's name corresponds to name of record for the inventor (i.e., Eric R. MONTGOMERY), if such name is correct (accompanied by an explanation for the error in the present declaration); or (2) a grantable petition under 37 CFR 1.182 to correct the name of the inventor to that set forth in the declaration (i.e., Robert Eric MONTGOMERY), 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).

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

[1] If the name of the inventor has been officially changed since the filing of the international application, the requirements for the required petition under 37 CFR 1.182 are as set forth in MPEP section 605.04(c)

0 1 MAY 2008

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Alexandria, VA 22313-1450
www.uspto.gov

NANCY QUAN
BriteSmile Professional, Inc.
8550 Higuera Street
Culver City, CA 90232

In re Application of:	:	
MONTGOMERY, Robert, Eric	:	DECISION
U.S. Application No.: 10/568,054	:	
PCT No.: PCT/US2004/024070	:	
International Filing Date: 28 July 2004	:	
Priority Date: 28 July 2003	:	
Attorney's Docket No.: 7800B.8005	:	
For: COMPOSITIONS, METHODS,	:	
DEVICES AND KITS FOR	:	
MAINTAINING OR ENHANCING	:	
TOOTH WHITENING	:	

This decision is issued in response to the petition for revival under 37 CFR 1.137(b) and the petition to correct the name of the inventor under 37 CFR 1.182 filed 13 March 2008. Applicant has submitted the required petition fee for the petition under 37 CFR 1.137(b); Deposit Account No. 50-3717 will be charged the $400 petition fee required for the petition under 37 CFR 1.182.

BACKGROUND

The procedural background for the present application was set forth in the decision mailed on 19 January 2007. That decision dismissed the petition under 37 CFR 1.47(b) filed herein seeking acceptance of the application without the signature of the sole inventor of record, Eric R. MONTGOMERY.

On 12 February 2007, petitioner filed a response to 19 January 2007 decision which included a declaration executed by the previously non-signing inventor. The declaration identified the inventor as Robert Eric MONTGOMERY.

On 23 February 2007, this Office mailed a decision indicating that, based on the submission of the executed declaration, the petition under 37 CFR 1.47(b) was now moot. The decision noted, however, that the filed declaration was not acceptable because the name of the inventor listed in the declaration (Robert Eric MONTGOMERY) did not correspond to the name of record for this inventor (Eric R. MONTOGMERY). The decision indicated that a petition under 37 CFR 1.182 to correct the name of the inventor was required before the filed declaration could be accepted. The decision provided applicant with an extendable two-month response period to file the required petition.

On 11 February 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Abandonment" (Form PCT/DO/EO/909) indicating that the application was abandoned based on applicant's failure to response to the 23 February 2007 decision.

On 13 March 2008, applicant filed the petition for revival under 37 CFR 1.137(b) and the petition to correct the inventor's name under 37 CFR 1.182 considered herein.

DISCUSSION

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). It is noted that item (4) does not apply to the present application.

With respect to item (1), the "required reply" in this application is a proper response to the decision mailed 23 February 2007, that is, a grantable petition under 37 CFR 1.182 to correct the inventor's name of record to correspond to the name listed on the declaration 12 February 2007. The present submission includes the required petition under 37 CFR 1.182. The petition confirms that the inventor's correct name is Robert Eric MONTGOMERY (as set forth on the declaration), and it indicates that the inventor's name was "accidentally transposed" during the filing of the international application as the result of an unintentional error. The petition also included the required petition fee. These materials satisfy the requirements of a grantable petition under 37 CFR 1.182 to correct the inventor's name. Accordingly, applicant has now submitted the "required reply;" item (1) of a grantable petition for revival is satisfied.

With respect to item (2), applicants have submitted the required petition fee for the petition for revival. Item (2) is therefore satisfied.

With respect to item (3), the petition includes the required 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." Item (3) is therefore satisfied.

Based on the above, applicant has satisfied all the requirements for a grantable petition for revival under 37 CFR 1.137(b).

CONCLUSION

The petition under 37 CFR 1.182 to correct the name of the inventor and the petition for revival under 37 CFR 1.137(b) are **GRANTED**.

The name of record for the inventor herein is corrected to Robert Eric MONTGOMERY, the name listed on the declaration filed herein on 12 February 2007. Based on this correction, the declaration filed 12 February 2007 may now be accepted under 37 CFR 1.497.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including updating USPTO records with respect to the inventor's name and the correspondence address. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 12 February 2007.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNGARETTI & HARRIS LLP
INTELLECTUAL PROPERTY GROUP - PATENTS
70 WEST MADISON STREET
SUITE 3500
CHICAGO, IL 60602-4224

Mail Date: 04/20/2010

Applicant	: Thomas G. Eakin	: DECISION ON REQUEST FOR
Patent Number	: 7601143	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/568,056	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/13/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,063	07/17/2006	Manfred Heim	HEIM3001/JJC/PMB	7469

23364 7590 12/15/2009
BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

EXAMINER
JOLLEY, KIRSTEN

ART UNIT	PAPER NUMBER
1792	

MAIL DATE	DELIVERY MODE
12/15/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

wk

Mailed : 12/15/09

In re Application of	:	DECISION ON
Manfred Heim	:	PETITION
Serial No. 10/568,063	:	
Filed: July 17, 2006	:	
For: Security Element With Thin-Layer Element	:	

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 and 1.181(a) filed August 7, 2009 for withdrawal of the restriction made final on April 28, 2009

The Examiner on December 15, 2008 made a restriction requirement on the basis of lack of unity between four groups. The restriction was made final in the Office Action dated April 28, 2009. The basis of the restriction was that the claims of Groups I and II were found to lack unity *a posterior* in view of U.S publication no. 2004/017789, since is was asserted that the publication disclosed the special technical feature shared by the claims of Groups I and II.

The publication has a filing date of December 17, 2003, which is later than the August 12, 2003 filing date of the foreign priority document of the pending application. The reference cannot be considered a prior art reference.

DECISION

Accordingly, the petition is **GRANTED**.

The claims of Group I and II have unity of invention under 37 C.F.R. 1.475

/JACQUELINE STONE/

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

Patrick M. Buechner
Bacon & Thomas, PLLC
625 Slaters Lane, Fourth Floor
Alexandria, Virginia 22314-1176

07 MAR 2006

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Alexandria, VA 22313-1450
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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

In re Application of	:	
HAYES-PANKHURST et al.	:	
Application No.: 10/568,069	:	DECISION ON
PCT No.: PCT/GB04/01754	:	
Int. Filing Date: 27 April 2004	:	PETITION UNDER
Priority Date: 28 April 2003	:	
Attorney Docket No.: P08796US00/DEJ	:	37 CFR 1.137(b)
For: FRAGRANCE DISPERSERS	:	

This decision is in response to applicants' submission filed 13 February 2006.

BACKGROUND

On 27 April 2004, applicants filed international application PCT/GB04/01754 which designated the U.S. and claimed a priority date of 28 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 11 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 October 2005.

On 13 February 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, a declaration of the inventors, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 13 February 2006.

As to item (2), applicant submitted the petition fee on 13 February 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.

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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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Paul Richard Hayes-Pankhurst	: DECISION ON REQUEST FOR
Patent Number	: 7621511	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/568,069	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **626** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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	: Masaki Ukai	: DECISION ON REQUEST FOR
Patent Number	: 7622525	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/568,072	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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0 4 JUN 2007

Laba Karki, Ph.D.
Morgan Lewis & Bockius, LLP
1111 Pennsylvania Avenue, N.W.
Washington, DC 20004

In re Application of SMALL, et al. Serial No.: 10/568,077 PCT No.: PCT/US04/25913 Int. Filing Date: 12 August 2004 Priority Date: 14 August 2003 Atty Docket No.: 0632540203US For: PERIODIC ACID COMPOSITIONS FOR POLISHING RUTHENIUM/LOW K SUBSTRATES	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is in response to the "Petition Under 37 C.F.R. §1.47(a)" filed 17 May 2007 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor Haruki Nojo. Applicant has authorized charging of the $200.00 petition fee to deposit account number 50-0310.

BACKGROUND

On 12 August 2004, applicant filed international application PCT/US04/25913 which claimed priority to a previous application filed 14 August 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 14 February 2006.

On 13 February 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 preliminary amendment and an Information Disclosure Statement.

On 18 October 2006, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 17 May 2007, applicant filed the present petition under 37 CFR 1.47(a) accompanied by a petition for a five-month extension of time. With payment of the five-month extension of

time applicant's present response is considered timely filed.

DISCUSSION

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

As to item (2), applicant has provided a firsthand statement showing that a complete set of the application papers was mailed to Mr. Nojo's last known address and that to date he has not responded. In addition, applicant has shown that additional, unsuccessful, attempts were made to contact the inventor by telephone and email. However, it is not possible to accept the inventor's silence as a refusal at this time. Specifically, there is a question as to the whereabouts of Mr. Nojo. The Federal Express parcel which contained the complete set of application papers was signed for by a "N. OUJOU." This, coupled with the fact that Mr. Nojo has left his last employer and not responded to email and phone inquires calls into question whether Mr. Nojo resides at the address to which the papers were sent. Before the inventor's silence can be considered a refusal in the present case applicant should search for an other current addresses for Mr. Nojo and send papers to the new address if found or alternatively submit the search results showing that despite diligent effort no new address could be located.

As stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts."

Regarding item (4), the filed declaration does not comply with 37 CFR 1.497 (a)-(b). Specifically, MPEP Section 201.03 states that:

An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

The filed declaration contains two pages "2 of 2." This suggests that either the filed declaration was compiled from numerous declarations or that the inventors only returned their signature pages. Either scenario renders the document non-compliant.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

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

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

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

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21 AUG 2007

Laba Karki, Ph.D.
Morgan Lewis & Bockius, LLP
1111 Pennsylvania Avenue, N.W.
Washington, DC 20004

In re Application of	:	
SMALL, et al.	:	
U.S. Application No.: 10/568,077	:	DECISION ON RENEWED
PCT No.: PCT/US04/25913	:	
Int. Filing Date: 12 August 2004	:	PETITION UNDER
Priority Date: 14 August 2003	:	
Attorney Docket No.: 0632540203US	:	37 CFR 1.47(a)
For: PERIODIC ACID COMPOSITIONS FOR	:	
POLISHING RUTHENIUM/LOW K	:	
SUBSTRATES	:	

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

BACKGROUND

On 04 June 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a) to accept the application without an executed declaration of inventor Haruki Nojo. Applicant was accorded two months to a request for reconsideration including either: 1) an oath or declaration in compliance with 37 CFR 1.497 (a)-(b) signed by the inventor or 2) a renewed petition satisfying all requirements under 37 CFR 1.47(a).

On 03 August 2007, applicant filed the response discussed herein.

DISCUSSION

The renewed petition under 37 CFR 1.47(a) is moot since the presently filed declaration has been executed by the previous non-signing inventor, Haruki Nojo. A review of the filed declarations finds that they are acceptable under 37 CFR 1.497.

CONCLUSION

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

The application has an international filing date of **12 August 2004** and will be given a

date of **03 August 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

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HOWREY LLP-CA
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

MAILED

FEB 24 2009

OFFICE OF PETITIONS

In re Application of	:	
EL GHAOUI, Laurent et al.	:	
Application No. 10/568,094	:	DECISION ON PETITION
Filed: May 17, 2006	:	TO WITHDRAW
Attorney Docket No. **ENTL-054.US1**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 27, 2009.

The request is **APPROVED**.

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

The request was signed by Adam Whiting on behalf of all attorneys of record who are associated with customer No. 27194. All attorneys/agents associated with the Customer Number 27194 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed October 20, 2008 that requires a reply from the applicant.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **LAURENT EL GHAOUI**
2945 MAGNOLIA STREET
BERKELY CA 94705

cc: **ENTELOS, INC.**
C/O LAW OFFICES OF KAREN E. FLICK
P.O. BOX 515
EL GRANADA CA 94018-0515

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

MAILED

NOV 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Valerie Arranz	:	DECISION ON PETITION
Application No. 10/568,104	:	TO WITHDRAW
Filed: March 19, 2007	:	FROM RECORD
Attorney Docket No. 62745.000021	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed October 6, 2009.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted on October 6, 2009 is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. Specifically, pursuant to 37 CFR 10.40, the Office will require the practitioner(s) to certify that he, she or they have:

> (1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment;
>
> (2) delivered to the client or 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.

Petitioner has not complied with item (2) of the above certifications.

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.*

According to a review of current USPTO records petitioner has not recognized the current recorded assignee concerning the above-identified application or the first listed inventor. As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is an outstanding Office action mailed September 16, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

0 1 MAY 2008

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SIEMANS CORPORATION
Intellectual Property Dept.
170 Wood Avenue South
Iselin, NJ 08830

In re Application of :
DAHLKE *et al* :
U.S. Application No.: 10/568,115 :
PCT No.: PCT/EP2004/008116 :
Int. Filing Date: 20 July 2004 :
Priority Date: 13 August 2003 : **DECISION**
Attorney Docket No.: 2003P09461WOUS :
For: HEAT SHIELD ARRANGEMENT FOR A COMPONENT GUIDING A HOT GAS IN PARTICULAR FOR A COMBUSTION CHAMBER IN A GAS TURBINE :

This petition is in response to the papers filed on 14 March 2008 which are treated as a petition under 37 CFR 1.8(b). No fee is required.

BACKGROUND

On 24 July 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 14 August 2006, applicants purportedly filed a response containing an executed declaration via facsimile. However, these papers are not located in the file.

On 10 December 2007, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909), indicating that the application went abandoned for failure to timely reply to the Form PCT/DO/EO/905 mailed 24 July 2006.

On 15 February 2008, applicants filed via facsimile several papers.

On 14 March 2008, applicants filed the subject petition to withdraw the holding of abandonment.

DISCUSSION

In the petition filed 14 March 2008, applicants' claim to have responded to the

Form PCT/DO/EO/905 via facsimile transmission on 14 August 2006. However, this response is not present in the file and the surcharge fee has not been paid. As such, the subject application went abandoned for failure to respond to an office action.

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

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

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

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

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

Applicants provided a copy of the documents purportedly filed 14 August 2006. Applicants also included a declaration by Ann Hickey and a copy of applicants' "Communication Result Report" received from the USPTO.

A review of the evidence shows that the "Communication Result Report" is partially cut off and does not indicate a receiving facsimile telephone number on it.

As such, applicants must provide additional evidence that the documents were sent to the facsimile number in question (571-270-9880). Such evidence may include any relevant evidence such as electronic confirmation reports, log books, billing records, etc.

CONCLUSION

For the reason noted above, applicants' petition under 37 CFR 1.8(b) is hereby **DISMISSED** without prejudice.

The application remains abandoned.

10/568,115

Applicants have **TWO (2) MONTHS** to respond to the decision. Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

2 4 JUN 2008

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

SIEMANS CORPORATION
Intellectual Property Dept.
170 Wood Avenue South
Iselin, NJ 08830

In re Application of
DAHLKE *et al*
U.S. Application No.: 10/568,115
PCT No.: PCT/EP2004/008116
Int. Filing Date: 20 July 2004
Priority Date: 13 August 2003
Attorney Docket No.: 2003P09461WOUS
For: HEAT SHIELD ARRANGEMENT FOR A COMPONENT GUIDING A HOT GAS IN PARTICULAR FOR A COMBUSTION CHAMBER IN A GAS TURBINE

DECISION

This petition is in response to the papers filed on 09 May 2008 which are treated as a renewed petition under 37 CFR 1.8(b).

BACKGROUND

On 01 May 2008, a decision dismissing applicants' petition to withdraw the holding of abandonment under 37 CFR 1.8(b) was mailed. Applicants were given two months to respond with extensions of time available.

On 09 May 2008, applicants filed the subject petition which was accompanied by several exhibits.

DISCUSSION

Applicants' original petition was dismissed as the Communication Result report did not identify the facsimile number to which the papers filed 14 August 2006 were sent. Applicants were requested to provide additional evidence that the documents were sent to the facsimile number in question (571-270-9880).

In the renewed response, applicants explain that the facsimile machine used to submit the response in question to India L. Evans at 571-270-9880 "generically identifies the patent office numbers as "USPTO" rather than particularizing the fax number to which the papers are sent." Applicants submitted test facsimiles to several USPTO facsimile numbers and the Communication Result Report all identified the number as "USPTO." This is an adequate explanation.

All requirements of 37 CFR 1.8(b) are satisfied.

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 10 December 2007 is hereby **VACATED**.

The declaration originally submitted on 14 August 2006 is in compliance with 37 CFR 1.497(a) and (b). The $130.00 surcharge fee has been charged to Deposit Account No. 19-2179 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 20 July 2004 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 14 August 2006.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 05/06/2010

Applicant	: Malte Blomeyer	: DECISION ON REQUEST FOR
Patent Number	: 7654090	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/568,120	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **779** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

03 MAR 2006

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Keith J. Barkaus
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue Of The Americas
New York, NY 10036-8402

In re Application of:	
CONDE HINOJOSA, Jose, Ramon	DECISION ON PETITION FOR
U.S. Application No.: 10/568,124	REVIVAL OF ABANDONED
PCT No.: PCT/ES2004/000332	APPLICATION UNDER
International Filing Date: 13 July 2004	37 CFR 1.137(b)
Priority Date: 23 July 2003	
Attorney's Docket No.: P/4043-257	
For: PROCEDURE AND APPARATUS OF RAPID COOLING OF PACKAGED BEVERAGES	

The petition for revival under 37 CFR 1.137(b) filed 14 February 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

Applicant has now submitted the small entity basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

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 declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date.

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

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24 MAY 2006

Polster, Lieder, Woodruff &
Lucchesi, LC
12412 Powerscourt Drive, Suite 200
St. Louis, Missouri 63131

In re Application of	:	DECISION ON
Price et al	:	
Application No.: 10/568,131	:	
PCT No.: PCT/US04/025579	:	
Int. Filing Date: 06 August 2004	:	PETITION UNDER
Priority Date: 07 August 2003	:	
Attorney's Docket No.: PHIT8686	:	
For: Cosmetic Bandage	:	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 10 February 2006.

BACKGROUND

On 06 August 2004, this international application was filed, claiming an earliest priority date of 07 August 2003.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 07 February 2006. This international application became abandoned with respect to the United States at midnight on 07 February 2006 for failure to pay the required basic national fee.

On 10 February 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.

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

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31 JUL 2007

MCDONNELL, BOEHNEN, HULBERT AND BERGHOFF, LLP
300 SOUTH WACKER DRIVE
SUITE 3100
CHICAGO, IL 60606

In re Application of	:	
RADKA, Susan et al.	:	DECISION ON
Application No.: 10/568,134	:	
PCT No.: PCT/US04/26857	:	PETITION UNDER
Int. Filing Date: 17 August 2004	:	
Priority Date: 22 August 2003	:	37 CFR 1.47(a)
Attorney's Docket No.: 03-770-C (700.020US)	:	
For: Detection And Quantitation Of Nucleic Acid	:	
Molecules In Biological Samples	:	

This is a decision on applicant's "Petition Under Rule 1.47(a)," filed in the United States Patent and Trademark Office on 12 April 2007, to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Susan Radka.

BACKGROUND

On 17 August 2004, applicants filed international application PCT/US04/26857, claiming an earliest priority date of 22 August 2003. The thirty-month for paying the basic national fee in the United States expired at midnight on 22 February 2006.

On 10 February 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.

On 14 September 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 12 April 2007, applicants filed a response to the Notification of Missing Requirements including, *inter alia*, a five-month extension fee, an executed declaration and the instant petition under 37 CFR 1.47(a) requesting acceptance of the declaration on behalf of the non-signing inventor Susan Radka.

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 Michael Greenfield represents a firsthand statement by the person who presented non-signing inventor Susan Radka with the complete application. The copy the FedEx tracking report is sufficient to show that the application papers were delivered to the last known address of non-signing inventor Susan Radka on 12 March 2007 (see Exhibit A1). The declaration of Alicia Vagts represents a firsthand statement by a person who was contacted directly by non-signing inventor Susan Radka and to whom a refusal to execute the declaration was explicitly made on 10 April 2007. Hence, item (4) is satisfied.

CONCLUSION

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

This application has an International Filing Date of 17 August 2004 and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 12 April 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.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3297
Facsimile: (571) 273-0459
OFFICIAL GAZETTE NOTICE

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

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

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MAR 2 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Hanshi Chinone	:	
Application No. 10/568,147	:	ON PETITION
Filed: February 13, 2006	:	
Attorney Docket No. 062110	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 18, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 14, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Two-month (2) extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is December 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1793 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

19 APR 2006

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

In re Application of OLSSON Application No.: 10/568,149 PCT No.: PCT/US04/04765 Int. Filing Date: 18 February 2004 Priority Date: 19 February 2003 Attorney Docket No.: ACADIA.033NP For: 2-AMINOETHYL SUBSTITUTED PYRIMIDIN-2-ONES CYCLOPROPANES PYRAZOLINES PYRIMIDINES AND BENZOTHIAZEPINES AND THEIR USES AS UROTENSIN II AND SOMATOSTATIN 5 RECEPTOR LIGANDS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicants' submission filed 10 February 2006.

BACKGROUND

On 18 February 2004, applicants filed international application PCT/US04/04765 which designated the U.S. and claimed a priority date of 19 February 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 02 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 August 2005.

On 10 February 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 10 February 2006.

As to item (2), applicant submitted the petition fee on 10 February 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 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 1450
Alexandria, VA 22313-1450
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27 NOV 2006

Alexander Akhiezer
Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
P.O. Box 9133
Concord, MA 01742-9133

In re Application of BECKER, et al. U.S. Application No.: 10/568,167 PCT No.: PCT/EP04/09019 Int. Filing Date: 12 August 2004 Priority Date: 12 August 2003 Attorney's Docket No.: 3724.1007-000 For: CONJUGATED POLYMERS CONTAINING DIHYDROPHENANTHRENE UNITS AND USE THEREOF	DECISION ON PETITION UNDER 37 CFR 1.182

This decision is in response to applicant's "Transmittal of Declaration For Patent Application and Power of Attorney" filed 10 May 2006 in the United States Patent and Trademark Office (USPTO). The submission of inventor Corinna Leske (nee Haase) is being treated as a petition under 37 CFR 1.182 to accept a name change in the inventor. As authorized, the $400.00 petition fee will be charge to deposit account number 08-0380.

BACKGROUND

On 12 August 2004, applicant filed international application PCT/EP04/09019, which claimed priority of an earlier application filed 12 August 2003. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 17 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 12 February 2006.

On 09 February 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 as filed and a First preliminary amendment.

On 10 May 2006, applicant filed the present petition; an executed combined declaration and power of attorney of the inventors; a explanation from counsel regarding the name and signature of inventor Corinna Leske (nee Haase) and a separate declaration regarding the name change executed by inventor Corinna Leske (nee Haase).

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. Leske detailing her current married name and her maiden name. As such, it is appropriate 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 Corinna Haase to Corinna Leske is **GRANTED**.

As authorized the $400.00 petition fee will be deducted from Deposit Account No.: 08-0380.

The application has an international filing date of 12 August 2004 under 35 U.S.C. 363 and will be given a date of **10 May 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

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

EAST Search History

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
S1	48	((("(20040044627") or ("20030115135") or ("20020069162") or ("5220501") or ("5870724") or ("6029887") or ("6182891") or ("6202054") or ("20010005840") or ("6059186") or ("6059186") or ("6223168") or ("6223168") or ("6289323") or ("20010037297") or ("20020152179") or ("20030036918") or ("20040138955") or ("20060049242") or ("20060086783") or ("20060224508") or ("4948174") or ("4974878") or ("20030028790") or ("20050256802") or ("6320947") or ("6381316") or ("20020029339") or ("6169890") or ("5870725") or ("5895455") or ("6009408") or ("6023705") or ("7124937") or ("20060163345") or ("20070001001") or ("6047887") or ("7146338") or ("7175074") or ("20020013768") or ("20030004867") or ("20030050891") or ("20030069842") or ("20030163425") or ("20040236688") or ("20040242208") or ("20050209965") or ("6119946") or ("5677955") or ("6021202") or (").pn.")).PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/12 10:49
S3	20	("4189270"|"5012049"|"5144680"|"5280527"|"5291560"|"5386104"|"5481265"|"5493621"|"5659626"|"5729220"|"5757278"|"5878157"|"6011858"|"6016476"|"6038666"|"6084968"|"6111977"|"6122625"|"6182221"|"6201484").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/12 10:49
S4	1	("2004/0044627").URPN.	USPAT	OR	OFF	2007/03/12 10:57
S5	11	("20020111994" | "20040044627" | "4952928" | "5572596" | "5578813" | "5812067" | "6141436" | "6259805" | "6446862" | "D427918" | "D429468").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/12 10:57
S6	18	("5229764" | "5493621" | "5613012" | "5613014" | "5999637").PN. OR ("6259805").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/12 11:20

EAST Search History

S7	12	(("6002344") or ("6011858") or ("6016476") or ("6040783") or ("6084967") or ("6084968") or ("6102286") or ("6111977") or ("6111506") or ("6121544") or ("6150921") or ("6157871")).PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/12 11:32
S9	623477	database	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/12 11:33
S10	23479	discount$4	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/12 11:33
S11	1248	price adj reduction	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/12 11:33
S12	0	S10 and S4	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/12 11:33
S13	406	S10 and S11	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/12 11:34
S14	313	S13 and S9	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/12 11:34
S15	11860	biometric	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/12 11:34
S16	42	S15 and S14	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/12 13:56
S17	316	biometric adj template	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/12 14:05
S18	43737	"705"/$2.ccls.	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/12 14:05
S19	46	S17 and S18	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/12 14:05

27 MAR 2007

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Alexander Akhiezer
Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
P.O. Box 9133
Concord, MA 01742-9133

In re Application of BECKER, et al. U.S. Application No.: 10/568,167 PCT No.: PCT/EP04/09019 Int. Filing Date: 12 August 2004 Priority Date: 12 August 2003 Attorney's Docket No.: 3724.1007-000 For: CONJUGATED POLYMERS CONTAINING DIHYDROPHENANTHRENE UNITS AND USE THEREOF	DECISION ON PETITION UNDER 37 CFR 1.182

This decision is in response to applicant's "Petition Under 37 C.F.R. 1.182 to Change The Inventor's Name" filed 16 March 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 05 December 2006, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a date of **10 May 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

On 16 March 2007, applicant filed the present petition including a explanation from counsel regarding the name of inventor Aurelie Ludemann (nee Falcou) and a separate declaration regarding the name change executed by inventor Aurelie Ludemann (nee Falcou).

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. Ludemann using her current married name and her maiden name. As such, it is appropriate to grant applicant's petition at this time. A corrected filing receipt listing the inventor as Aurelie Ludemann accompanies this decision.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Aurelie Falcou to Aurelie Ludemann is **GRANTED**.

Applicant has provided payment of the $400.00 petition fee.

The application has an international filing date of 12 August 2004 under 35 U.S.C. 363 and a date of **10 May 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

Attachment: Corrected Filing Receipt

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/568,167	05/10/2006	1751	2030	3724.1007-000	36	4

CONFIRMATION NO. 5617

CORRECTED FILING RECEIPT

OC000000023114631

21005
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Date Mailed: 03/26/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Heinrich Becker, Hofheim, GERMANY;
Esther Breuning, Niedernhausen, GERMANY;
Arne Busing, Frankfurt/Main, GERMANY;
Aurelie Ludemann, Frankfurt, GERMANY;
Corinna Haase, Frankfurt, GERMANY;
Hubert Speitzer, Viernheim, GERMANY;
Silke Turk, Montabaur, GERMANY;

Power of Attorney: The patent practitioners associated with Customer Number **021005**.

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP04/09019 08/12/2004

Foreign Applications

GERMANY 103 37 346.2 08/12/2003

If Required, Foreign Filing License Granted: 12/04/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/568,167

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Conjugated polymers containing dihydrophenanthrene units and use thereof

Preliminary Class

510

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.

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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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MAR 13 2009

BIO INTELLECTUAL PROPERTY SERVICES (BIO IPS) LLC
8509 KERNON CT.
LORTON VA 22079

In re Application of :	:
Howard J. Smith	:
Serial No.: 10/568,176	: SUSPENSION OF ACTION
Filed: November 30, 2006	:
Attorney Docket No.: **P1119/20001**	:

This is in reply to the petition under 37 CFR 1.103(a) to suspend action in this application at applicant's request for a six month period of time, filed February 23, 2009.

BACKGROUND

Applicants request prosecution in this application be suspended for six months so that applicants can make a determination of whether animal studies are feasible in order to go forward with comparative studies.

DISCUSSION

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.

Applicants have replied to the last Office action by filing an appropriate response. Applicants have shown good and sufficient reason for suspension.

DECISION

In view of the above, the petition for suspension of action is **GRANTED** for a period of six months from the date of mailing of this decision.

Should applicant obtain the requisite data prior to the expiration of the period of suspension, a submission of the results should be promptly forwarded to the Office so that prosecution may be resumed.

Should there be any questions with respect to this action, please contact the examiner or Marianne Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office general facsimile number, 571-273-8300.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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OCT 0 1 2009

BIO INTELLECTUAL PROPERTY SERVICES (BIO IPS) LLC
8509 KERNON CT.
LORTON VA 22079

In re Application of :	:
Howard J. Smith	:
Serial No.: 10/568,176	: SUSPENSION OF ACTION
Filed: November 30, 2006	:
Attorney Docket No.: **P1119/20001**	:

This is in reply to a renewed petition under 37 CFR 1.103(a) to suspend action in this application at applicant's request for an additional six month period of time, filed September 11, 2009.

BACKGROUND

Applicants request prosecution in this application be suspended for an additional six months so that applicants can perform animal studies and obtain comparative studies.

DISCUSSION

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.

Applicants have replied to the last Office action by filing an appropriate response. Applicants have shown good and sufficient reason for suspension.

DECISION

In view of the above, the petition for suspension of action is **GRANTED** for an additional period of six months from the date of mailing of this decision.

Should applicant obtain the requisite data prior to the expiration of the period of suspension, a submission of the results should be promptly forwarded to the Office so that prosecution may be resumed.

Should there be any questions with respect to this action, please contact the examiner or Marianne Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office general facsimile number, 571-273-8300.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

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OFFICE OF PETITIONS

In re Application of :
Bandi Parthasaradhi Reddy et al. :
Application No. 10/568,177 :
Filing Date: February 10, 2006 :
Attorney Docket No. H1089/20030 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 2009, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action issued January 14, 2009, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on April 15, 2009.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the non-final Office action in the form of an amendment. Petitioner has submitted the required petition fee of $810. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

Technology Center Art Unit 1625 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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10 MAY 2007

Nixon & Vanderhye, PC
901 North Glebe Road, 11th Floor
Arlington, VA 22203

In re Application of	:	
THOM et al.	:	
Application No.: 10/568,182	:	DECISION ON
PCT No.: PCT/GB04/03455	:	PAPERS UNDER 37 CFR 1.42
Int. Filing Date: 11 August 2004	:	
Priority Date: 13 August 2003	:	
Attorney Docket No.: 34-131	:	
For: FLOATING DRY DOCK SYSTEM	:	

This decision is issued in response to "Petition under 37 CFR 1.42 for Acceptance of Inventors' Declaration Signed by Legal Representative on Behalf of Dead Inventor" filed 24 August 2006 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 11 August 2004, applicants filed the above-identified international application which claimed a priority date of 13 August 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 13 February 2006.

On 13 February 2006, applicants 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 a preliminary amendment.

On 05 July 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 24 August 2006, applicants filed a declaration executed by David Scot Thom and Denise Ganley, on behalf of deceased inventor, Denis Ganley.

DISCUSSION

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

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

The declaration filed on 24 August 2006 is executed by David Scot Thom and Denise Ganley as the "executor" of the deceased inventor, Denis Ganley. The declaration submitted appears to have been executed by the proper parties under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2). 37 CFR 1.497(b)(2) states the following:

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

Pursuant to 37 CFR 1.497(b)(2), the declaration must provide the citizenship, mailing address, and residence information for the legal representative **and** the name and citizenship of the deceased inventor. The declaration filed on 24 August 2006 provides the residence, citizenship, and post office address for only one individual and it is unclear whether this information is for the legal representative or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

Because the filed declaration does not include all the information required by 37 CFR 1.497(b)(2), the declaration cannot be accepted under 37 CFR 1.42 and 37 CFR 1.497.

CONCLUSION

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

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

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

Anthony Smith

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

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12 JUL 2007

Nixon & Vanderhye, PC
901 North Glebe Road, 11th Floor
Arlington, VA 22203

In re Application of	:	
THOM et al.	:	
Application No.: 10/568,182	:	DECISION ON
PCT No.: PCT/GB04/03455	:	PAPERS UNDER 37 CFR 1.42
Int. Filing Date: 11 August 2004	:	
Priority Date: 13 August 2003	:	
Attorney Docket No.: 34-131	:	
For: FLOATING DRY DOCK SYSTEM	:	

This decision is issued in response to "Renewed Submission under 37 CFR 1.42" filed 10 July 2007. No petition fee is required.

BACKGROUND

On 11 August 2004, applicants filed the above-identified international application which claimed a priority date of 13 August 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 13 February 2006.

On 13 February 2006, applicants 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 a preliminary amendment.

On 05 July 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 24 August 2006, applicants filed a declaration executed by Donald Scot Thom and Denise Ganley, on behalf of deceased inventor, Denis Ganley. In a decision dated 10 May 2007, applicants' request under 37 CFR 1.42 was refused.

On 10 July 2007, applicants filed a "Renewed Submission under 37 CFR 1.42."

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.

As stated in the previous "Decision," the declaration filed on 24 August 2006 was executed by Donald Scot Thom and Denise Ganley as the "executor" of the deceased inventor, Denis Ganley. The declaration has been executed by the proper party under 37 CFR 1.42. Counsel avers that, "it is respectively submitted and affirmatively asserted that the provided citizenship, residence information, and mailing address provided is that for both the legal representative and the deceased inventor. More specifically, on information and belief, the deceased inventor, Mr. Denis Ganley was a New Zealand citizen . . . Also, on information and belief, Denise Ganley is the executor, daughter and sole heir of Denis Ganley and is a citizen of New Zealand, a resident of Greenhithe, Auckland New Zealand and has the mailing address P.O. Box 23, Greenhithe, Auckland, New Zealand." **(The United States Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting above statement regarding citizenship, residence, and mailing address of the executor and deceased inventor as referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63.)** Therefore, the declaration is acceptable under 37 CFR 1.42

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

The application has an international filing date of 11 August 2004 under 35 U.S.C. 363, and will be given a date of 24 August 2006 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

Anthony Smith

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

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24 OCT 2006

Steven I. Weisburd
Dickstein Shapiro, LLP
1177 Avenue of the Americas
41st Floor
New York, NY 10036-2714

In re Application of	:	
MUKAIYAMA, et al.	:	
Application No.: 10/568,187	:	
PCT No.: PCT/JP04/10829	:	DECISION ON PETITION
Int. Filing Date: 29 July 2004	:	
Priority Date: 22 August 2003	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: M1071.1959	:	
For: PLANAR DIELECTRIC LINE, HIGH-FREQUENCY ACTIVE CIRCUIT, AND TRANSMITTER-RECEIVER	:	

The petition to revive under 37 CFR 1.137(b) filed 26 September 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. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

The application has an international filing date of 29 July 2004 under 35 U.S.C. 363 and will be given a date of **26 September 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

1 7 OCT 2007

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

In re Application of SHUSTER et al	:	
U.S. Application No.: 10/568,200	:	
PCT Application No.: PCT/US2004/026345	:	DECISION
Int. Filing Date: 13 August 2004	:	
Priority Date Claimed: 14 August 2003	:	
Attorney Docket No.: 25791.301.06	:	
For: EXPANDABLE TUBULAR	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.182" filed 28 August 2007.

BACKGROUND

On 13 August 2004, applicant filed international application PCT/US2004/026345, which claimed priority of an earlier United States application filed 14 August 2003. The thirty-month period for paying the basic national fee in the United States expired on 14 February 2006.

On 13 February 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 substitute specification.

On 12 September 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that a properly executed oath or declaration must be filed.

On 05 April 2007, applicant filed an executed declaration.

On 16 April 2007, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

On 28 August 2007, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

A review of international application PCT/US2004/026345 reveals that the application contained 848 claims. A proper amendment reducing the number of claims was never submitted in the international application.

MPEP 1893.01(c) states in relevant part,

> A preliminary amendment accompanying the initial national stage submission under 35 U.S.C. 371 that cancels claims and/or eliminates multiple dependent claims will be effective to reduce the number of claims to be considered in calculating extra claim fees required under 37 CFR 1.492**>(d)-(e)< and/or eliminate the multiple dependent claim fee required under 37 CFR 1.492*>(f)<. A subsequently filed amendment canceling claims and/or eliminating multiple dependent claims will not entitle applicant to a refund of fees previously paid. See MPEP § 607 and § 608. (Emphasis added.)

In the present case, the initial national stage submission on 13 February 2006 did not include a proper preliminary amendment. However, it is apparent from the papers filed 13 February 2006 that applicant sought to reduce the number of claims for examination at the time of national stage entry. Specifically, the substitute specification contained a listing of 39 claims, rather than the 848 claims contained in the international application. Furthermore, the transmittal letter (Form PTO-1390) contained a payment calculation based on the presence of 39 claims as opposed to 848 claims. A proper preliminary amendment was filed with the present petition, reducing the total number of claims to 39. Because of applicant's intent to reduce the number of claims for examination and because the fees due for the presence of 848 claims at the time of the initial national stage submission would not be remotely commensurate with number of claims that remain for examination, justice in the present case requires waiver of the requirement that a preliminary amendment must accompany the initial national stage papers in order to reduce the number of claims to be considered in calculating extra claim fees.

The petition states that $9,005.00 has been paid for excess claim fees and requests a refund of $855.00. However, a review of the fee records for the present application reveals that $8,150.00 has been paid for excess claims fees. Therefore, a refund is not indicated in the present case.

CONCLUSION

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

For the reasons above, the request for refund is DISMISSED without prejudice.

Applicant is advised that the declaration filed 05 April 2007 is improper. Specifically, the declaration is an impermissible composite declaration which consists of one of page 1, four of page 2, and two of page 3. Where individual declarations are executed, they must be submitted as individual documents rather than combined into one declaration. Applicant must furnish: (1) a single complete declaration which has been presented to and executed by all of the

inventors or (2) multiple complete declarations, wherein each inventor has executed at least one of the complete declarations.

The Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 16 April 2007 is hereby VACATED.

The application is being forwarded to the DO/EO/US for processing in accordance with this decision, including preparation and mailing of a Notification of Defective Response (Form PCT/DO/EO/916), which should indicate that the declaration filed 05 April 2007 is defective for the reasons stated above.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

10/17/2007 SBASHEIR 00000006 081394 10568200
Sale Ref: 00000006 DA#: 081394 10568200
01 FC:1462 400.00 DA

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APR 14 2010

OFFICE OF PETITIONS

In re Application of
Robert Albertus Brondijk
Application No. 10/568,204
Filed: February 13, 2006
Attorney Docket No. NL031029

ON PETITION

This is a decision on the petition, filed April 13, 2010, which is being treated as a petition 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 October 30, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2627 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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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 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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GIFFORD, KRASS, SPRINKLE, ANDERSON
& CITKOWSKI, P.C.
P.O. BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

Applicant	: Mary Lopez	: DECISION ON REQUEST FOR
Patent Number	: 7652129	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/568,215	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **136** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Mail Date: 04/21/2010

Applicant	: Yasuo Kunugiza	: DECISION ON REQUEST FOR
Patent Number	: 7595301	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/568,226	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **458** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 05/18/2010

Applicant : Yasuo Kunugiza
Patent Number : 7595301
Issue Date : 09/29/2009
Application No : 10/568,226
Filed : 02/14/2006

: 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 **507** 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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MARK D. SARALINO (GENERAL)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE, NINETEENTH FLOOR
CLEAVENLAND, OH 44115-2191

COPY MAILED
AUG 22 2008

In re Patent No. 7,399,008	:	
Issue Date: July 15, 2008	:	
Application No. 10/568,249	:	ON PETITION
Filed: August 3, 2006	:	
Attorney Docket No. FISCP 0102US	:	

This is a decision on the petition filed May 7, 2008, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

17 MAY 2006

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

In re Application of	:	
ANBUKY, Adrian H. et al.	:	DECISION
Application No.: 10/568,260	:	
PCT No.: PCT/NZ04/00141	:	ON PETITION UNDER
Int. Filing Date: 02 July 2004	:	
Priority Date: 02 July 2003	:	37 CFR 1.137(b)
Docket No.: 9405-3	:	
For: BATTERY FLOAT MANAGEMENT	:	

Applicants' "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 C.F.R. §1.137(b)," filed in the above-captioned application on 13 February 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. 50-0220, 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

08 SEP 2006

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Alice O. Carroll
Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
P.O. Box 9133
Concord, MA 01742-9133

Kepin. Ref: 09/08/2006 SBASHEIR 0000353400
DX#:000380 Name/Number:10568261
FC: 9204 $600.00 CR

In re Application of
ROSS, Gordon D. (deceased)
Application No.: 10/568,261
PCT No.: PCT/US04/26359
Int. Filing Date: 13 August 2004
Priority Date: 13 August 2003
Attorney Docket No.: 3593.100-003
For: EFFECT OF BETA-GLUCAN ON STEM CELL RECRUITMENT AND TISSUE REPAIR

DECISION ON REQUEST

09/08/2006 SBASHEIR 00000004 10568261

01	FC:2631	150.00 OP
02	FC:2633	100.00 OP
03	FC:2632	250.00 OP
04	FC:2614	100.00 OP

This decision is issued in response to the declaration filed 30 March 2006 which is being treated as a request under 37 CFR 1.42. Additionally, this decision is issued in response to applicant's "Transmittal of Small Entity Statement and Request for Reimbursement" filed 30 March 2006. No petition fee is required.

BACKGROUND

On 13 August 2004, applicant filed the above-identified international application which claimed a priority date of 13 August 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 13 February 2006.

On 13 February 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 a preliminary amendment.

On 30 March 2006, applicant filed a declaration executed by the legal representative, Trunetta-Jo Dockter Ross. Additionally, applicant filed "Transmittal of Small Entity Statement and Request for Reimbursement."

DISCUSSION

A. Request under 37 CFR 1.42

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

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

The declaration filed on 30 March 2006 is executed by Trunetta Jo Dockter Ross as the "legal representative" of the deceased inventor, Gordon D. Ross. The declaration submitted appears to have been executed by the proper party under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

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

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

Pursuant to 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63, the declaration must also provide name, residence, citizenship, and post office address for the legal representative. In this case, the declaration filed on 30 March 2006 provides the residence, citizenship, and post office address for the legal representative but fails to provide the former citizenship of the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

B. Request for Refund under 37 CFR 1.26.

37 CFR 1.28(a) provides:

> A refund pursuant to §1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment of, the full fee.

In the present case, the 30 March 2006 request for a refund of a portion of the fees paid upon filing the present application based upon the subsequent establishment of small entity status was made within three-months of the payment of the large entity fees on 13 February 2006. Accordingly, petitioner is entitled to a refund of a portion of the large entity fees paid upon filing the present application.

CONCLUSION

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

The request for refund under 37 CFR 1.28(a) is **GRANTED**.

Deposit Account no. 08-0380 will be refunded 600.00.

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

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

Anthony Smith

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

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09 NOV 2006

Alice O. Carroll
Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
P.O. Box 9133
Concord, MA 01742-9133

In re Application of
ROSS, Gordon D. (deceased)
Application No.: 10/568,261
PCT No.: PCT/US04/26359
Int. Filing Date: 13 August 2004
Priority Date: 13 August 2003
Attorney Docket No.: 3593.100-003
For: EFFECT OF BETA-GLUCAN ON STEM CELL RECRUITMENT AND TISSUE REPAIR

DECISION ON REQUEST

This decision is issued in response to applicant's "Renewed Submission under 37 CFR 1.42" filed 01 November 2006. No petition fee is required.

BACKGROUND

On 13 August 2004, applicant filed the above-identified international application which claimed a priority date of 13 August 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 13 February 2006.

On 13 February 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 a preliminary amendment.

On 30 March 2006, applicant filed a declaration executed by the legal representative, Trunetta Jo Dockter Ross. In a decision dated 08 September 2006, applicant's request under 37 CFR 1.42 was refused.

On 01 November 2006, applicant filed the renewed request under 37 CFR 1.42.

DISCUSSION

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

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

The declaration filed 01 November 2006 is executed by Trunetta Jo Dockter Ross as the "legal representative" of the deceased inventor, Gordon D. Ross. The declaration provides the residence, post office address, and country of citizenship for the deceased inventor and the legal representative. Therefore, the declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b).

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

The application has an international filing date of 13 August 2004, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **01 November 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

17 MAR 2008

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THELEN REID BROWN RAYSMAN & STEINER LLP
P. O. BOX 640640
SAN JOSE CA 95164-0640

In re Application of	:	
CHUNG	:	
Application No.: 10/568,299	:	DECISION ON
PCT No.: PCT/KR2004/002044	:	
Int. Filing Date: 13 August 2004	:	PETITION UNDER
Priority Date: 14 August 2003	:	
Attorney Docket No.: 035967-021	:	37 CFR 1.137(b)
For: SKIN RESURFACING DEVICE	:	

This decision is in response to applicant's submission filed 15 February 2008.

BACKGROUND

On 13August 2004, applicant filed international application PCT/KR2004/002044 which designated the U.S. and claimed a priority date of 14 August 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 24 February 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 February 2006.

On 14 February 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 (Form PCT/DO/EO/905) was mailed indicating, *inter alia*, that a declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required.

On 11 December 2007, a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) was mailed indicating that the application was abandoned as to the United States of America for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 05 February 2007 within the time period set therein.

On 15 February 2008, applicant filed the instant petition under 37 CFR 1.137(b) and a declaration of the inventor.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted a declaration of the inventor on 15 February 2008.

As to item (2), applicant submitted the petition fee on 15 February 2008.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

The declaration of the inventor filed 15 February 2008 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

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

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

/Daniel Stemmer/

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

3 0 SEP 2008

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THELEN LLP
P. O. BOX 640640
SAN JOSE CA 95164-0640

In re Application of	:	
CHUNG	:	
Application No.: 10/568,299	:	DECISION ON
PCT No.: PCT/KR2004/002044	:	
Int. Filing Date: 13 August 2004	:	PETITION
Priority Date: 14 August 2003	:	
Attorney Docket No.: 035967-021	:	
For: SKIN RESURFACING DEVICE	:	

This decision is in response to applicant's submission filed 16 July 2008 requesting a refund of the petition fee paid on 15 February 2008. The submission has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 13 August 2004, applicant filed international application PCT/KR2004/002044 which designated the U.S. and claimed a priority date of 14 August 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 24 February 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 February 2006.

On 14 February 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 (Form PCT/DO/EO/905) was mailed indicating, *inter alia*, that a declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required.

On 11 December 2007, a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) was mailed indicating that the application was abandoned as to the United States of America for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 05 February 2007 within the time period set therein.

On 15 February 2008, applicant filed a petition under 37 CFR 1.137(b) and a declaration of the inventor.

On 17 March 2008, applicant's petition under 37 CFR 1.137(b) was granted.

On 27 May 2008, a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C., 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903) was mailed.

On 16 July 2008, applicant filed the instant petition which has been treated as a petition under 37 CFR 1.181.

DISCUSSION

The NOTIFICATION OF MISSING REQUIREMENTS mailed 05 February 2007 was returned to the USPTO as undeliverable on 14 February 2007.

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. Here, the return of the NOTIFICATION OF MISSING REQUIREMENTS to the USPTO as undeliverable is sufficient proof that applicant did not receive the NOTIFICATION. Accordingly, the NOTIFICATION OF MISSING REQUIREMENTS MAILED 05 February 2007 is hereby VACATED. Thus, the NOTIFICATION OF ABANDONMENT mailed 11 December 2007 and the decision on petition mailed 17 March 2008 are also hereby VACATED. The petition fee of $770 charged to Deposit Account 50-1698 will be credited to that account.

CONCLUSION

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

The NOTIFICATION OF MISSING REQUIREMENTS MAILED 05 February 2007 is VACATED.

The NOTIFICATION OF ABANDONMENT mailed 11 December 2007 and the decision on petition mailed 17 March 2008 are also VACATED.

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

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty

Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/30/2010

Applicant	: Constantinos Sideris	: DECISION ON REQUEST FOR
Patent Number	: 7611658	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/568,311	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **846** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/20/2010

Applicant	: Atsuhiro Kawamoto	: DECISION ON REQUEST FOR
Patent Number	: 7598475	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/568,317	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **341** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

1 2 MAY 2008

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

In re Application of	:	
SCHREIBER	:	
Application No.: 10/568,339	:	DECISION ON
PCT No.: PCT/EP2003/013515	:	
Int. Filing Date: 01 December 2003	:	PETITION
Priority Date: 13 August 2003	:	
Attorney Docket No.: 2003P09417WOUS	:	
For: METHOD AND CONTROL SYSTEM FOR	:	
OPERATING A TECHNICAL INSTALLATION	:	
COMPRISING A PLURALITY OF COMPONENTS	:	
IN PARTICULAR A COMBUSTION SYSTEM FOR	:	
GENERATING ELECTRIC ENERGY	:	

This decision is in response to applicant's submission filed 15 February 2008 in the United States Patent and Trademark Office (USPTO). The submission has properly been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 01 December 2003, applicant filed international application PCT/EP2003/013515, which designated the U.S. and claimed a priority date of 13 August 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 March 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 13 February 2006.

On 13 February 2006, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage under 35 U.S.C. 371 accompanied by, *inter alia*, the U.S. Basic National Fee.

On 21 August 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required. The NOTIFICATION OF MISSING REQUIREMENTS set a two-month extendable time period.

On 11 December 2007, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 21 August 2006 within the time period set therein.

On 15 February 2008, applicant filed the instant submission which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

The petition filed 15 February 2008 requests that the copy of the declaration accompanying the petition be accepted as having been received on 16 October 2006 pursuant to 37 CFR 1.8(b).

37 CFR 1.8(b) states

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

Items (1)-(2) have been satisfied. However, item (3) has not been satisfied. No statement which attests on a personal knowledge basis to the previous transmission has been provided. It would appear that Ann Hickey would be the person who would have personal knowledge of the transmission.

DECISION

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 in the NOTIFICATION OF ABANDONMENT mailed 11 December 2007.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS form the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

/Daniel Stemmer/

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

0 1 OCT 2008

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

In re Application of	:	
SCHREIBER	:	
Application No.: 10/568,339	:	DECISION ON
PCT No.: PCT/EP2003/013515	:	
Int. Filing Date: 01 December 2003	:	PETITION
Priority Date: 13 August 2003	:	
Attorney Docket No.: 2003P09417WOUS	:	
For: METHOD AND CONTROL SYSTEM FOR	:	
OPERATING A TECHNICAL INSTALLATION	:	
COMPRISING A PLURALITY OF COMPONENTS	:	
IN PARTICULAR A COMBUSTION SYSTEM FOR	:	
GENERATING ELECTRIC ENERGY	:	

This decision is in response to applicant's petition under 37 CFR 1.181 filed 13 June 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 01 December 2003, applicant filed international application PCT/EP2003/013515, which designated the U.S. and claimed a priority date of 13 August 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 March 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 13 February 2006.

On 13 February 2006, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage under 35 U.S.C. 371 accompanied by, *inter alia*, the U.S. Basic National Fee.

On 21 August 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required. The NOTIFICATION OF MISSING REQUIREMENTS set a two-month extendable time period.

On 11 December 2007, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 21 August 2006 within the time period set therein.

On 15 February 2008, applicant filed a submission which was properly treated as a petition under 37 CFR 1.181.

On 12 May 2008, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.181. Specifically, it was noted that a statement which attested on a personal knowledge basis to the previous transmission had not been provided.

On 13 July 2008, applicant filed the instant renewed petition under 37 CFR 1.181, which was accompanied by a declaration of facts by Ann Hickey.

DISCUSSION

The petition filed 13 June 2008 requests that the copy of the declaration filed 15 February 2008 be accepted as having been received on 16 October 2006 pursuant to 37 CFR 1.8(b).

37 CFR 1.8(b) states

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

As noted in the decision mailed 12 May 2008, items (1)-(2) have been satisfied.

Item (3) has now been satisfied as well. Therefore, the declaration received on 15 February 2008 may properly be accepted as originally received in the USPTO on 16 October 2006. Accordingly, the NOTIFICATION OF ABANDONMENT mailed 11 December 2007 is hereby VACATED.

DECISION

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

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 11 December 2007 is hereby VACATED.

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

/Daniel Stemmer/

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

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

MAILED

JUL 14 2009

OFFICE OF PETITIONS

In re Patent No. 7,497,940	:	
Issue Date: March 3, 2009	:	
Application No. 10/568,348	:	NOTICE
Filed: February 21, 2006	:	
Attorney Docket No.: 10921.0383USWO	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

It is noted that the present communication is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Sally P. Teng appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts. While a courtesy copy of this notice is being mailed to the address noted on this communication, any future correspondence regarding this patent will be directed solely to the address of record.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: SALLY P. TENG
MORGAN, LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVEUNE, N.W.
WASHINGTON, DC 20004

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JAN 27 2010

OFFICE OF PETITIONS

PAUL HASTINGS JANOFSKY & WALKER LLP
875 15TH STREET NW
WASHINGTON DC 20005

In re Application of	:	
Sato	:	
Application No. 10/568,352	:	ON PETITION
Filed: February 14, 2006	:	
Attorney Docket No. SUZ0027-US	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed December 14, 2009.

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

The above-identified application became abandoned for failure to timely file a proper response to the final Office action, mailed May 28, 2009, which set a shortened statutory period for reply of three months. Applicant filed an Amendment on November 23, 2009, made timely by obtaining a three month extension of time. However, the Amendment was not entered because it failed to place the application in condition for allowance. As such, the application became abandoned on November 29, 2009. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an RCE.

The application is being forwarded to Group Art Unit 3764 for consideration of the RCE, filed December 14, 2009.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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Douglas L. Wathen
GIFFORD, KRASS, SPRINKLE, ANDERSON
& CITKOWSKI, P.C.
2701 Troy Center Drive, Suite 330- PO Box 7021
Troy, MI 48007-7021

Mail Date: 04/21/2010

Applicant	: Franz Ulrich Brockhoff	: DECISION ON REQUEST FOR
Patent Number	: 7604283	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/568,353	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **30** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Erwin Bayer	:	
Application No. 10/568,394	:	DECISION ON PETITION
Filed:	:	
Attorney Docket No. 10537/319	:	

This is a decision on the petition, filed January 7, 2008, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notification of Missing Requirements of August 8, 2006, which set a two (2) month shortened statutory period for reply. Accordingly, a reply was due on or before October 10, 2006.

Petitioner states that a timely reply was mailed via by Express Mail on October 10, 2006, which includes the Declaration and Power of Attorney and the authorization to charge the $130 Surcharge. Petitioner has submitted a copy of the previously mailed correspondence and the post card receipt which bears a received date stamp of October 10, 2006.

The file record does not include the originally submitted papers. Failure to receive correspondence is addressed in 37 CFR 1.8(b), reproduced below:

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

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

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

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

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Notification of Missing Requirements of August 8, 2008 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted.

This application is being referred to the Office of Patent Examination Processing

Irvin Dingle
Petitions Examiner
Office of Petitions

0 9 JUN 2008

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George A. Coury
BACHMAN & LaPOINTE, P.C.
900 Chapel Street, Suite 1201
New Haven, CT 06510

In re Application of	:	DECISION ON
Schwaab et al	:	
Int. Application: PCT/EP2004/009046	:	
Application No.: 10/568,401	:	
Int. Filing Date: 12 August 2004	:	REQUEST UNDER
Priority Date: 14 August 2003	:	
Attorney's Docket No.: 06-131	:	
For: Reflective Layer	:	37 CFR 1.181

This is a decision on applicants' "RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION" filed on 02 May 2008, which is being treated as a request under 37 CFR 1.181 that all inventors listed in the executed declaration were in fact listed in the international application PCT/EP2004/009046.

BACKGROUND

On 12 August 2004, applicants filed international application No. PCT/EP2004/009046 claiming a priority date of 14 August 2003. The international application lists Gilles Schwaab, Bjorn Lunau and Dr. Jorn Schroer as applicant/inventors and applicants for the purpose for the US only.

On 24 February 2005, the IB published the international application and Gilles Schwaab, Bjorn Lunau and Dr. Jorn Schroer were not listed.

On 13 February 2006, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee, and an executed declaration. The executed declaration lists Gilles Schwaab, Bjorn Lunau and Dr. Jorn Schroer, however they were not listed in the international publication.

On 09 April 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 1.47(a) and (b), identifying the application by International application number and international filing date." The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it: The inventors on Oath does not match the Inventor on the International Application.

On 02 May 2008, applicants submitted a "Response to Notice to File Missing Parts of Application," the declaration filed is proper because the PCT Request showing all inventors as shown on the Declaration.

DISCUSSION

A review of the PCT Request shows that Gilles Schwaab, Bjorn Lunau and Dr. Jorn Schroer **are listed as applicant/inventors** and applicants for the purpose for the US only.

In addition, the IB has stated that due to a clerical error, these 3 applicant/inventors for the US were not entered and not published. As a result, the IB will republish the front page of the pamphlet on 03 July 2008 to correct the error.

Accordingly, the executed declaration filed on 13 February 2006 is proper.

CONCLUSION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **13 February 2006**.

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

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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

MAILED

MAY 20 2009

OFFICE OF PETITIONS

Applicant: Schwaab
Appl. No.: 10/568,401
International Filing Date: February 13, 2006
Title: REFLECTIVE LAYER
Attorney Docket No.: 06-131
Pub. No.: 2008/0231177 A1
Pub. Date: September 25, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on November 24, 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 foreign priority claim data to the German application includes a typographical error.

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

The error in the foreign priority claim to the German Application on the front page of the publication is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error in the foreign priority claim is not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The specification and claims were accurately published, thus one can read and understand the content

[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).

of the application. The error also does not affect the use of the patent application publication as a prior art reference, because the foreign priority date is not useable as a reference date.

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 07/09/2010

Applicant	: Gilles Schwaab	: DECISION ON REQUEST FOR
Patent Number	: 7642948	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/568,401	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **789** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

COPY MAILED
MAR 18 2010

In re Patent No. 7,544,786	:
Aasly et al.	: LETTER REGARDING
Issue Date: 06/09/2009	: PATENT TERM ADJUSTMENT
Application No. 10/568414	: AND NOTICE OF INTENT
Filing or 371(c) Date: 07/12/2006	: TO ISSUE
Atty. Docket No.: 07039-784US1	: CERTIFICATE OF CORRECTION

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed July 30, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

On June 9, 2009, the above-identified application matured into U.S. Patent No. 7,544,786, with a patent term adjustment of 11 days. Applicants indicate that the adjustment of 11 days appears to be longer than appropriate, and directs the Office's attention to the 371 Completion Date, and to the reply to a Notice to File Missing Parts filed in January 2007.

A review of the record reveals that the Office errantly calculated an adjustment of 82 days pursuant to 37 CFR 1.702(a)(1), in connection with the mailing of the Restriction Requirement mailed December 3, 2007. The application fulfilled the requirements of 35 U.S.C. 371 on December 7, 2006, and the Restriction Requirement was mailed within fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371, on December 3, 2007.

The record also reveals that the Office errantly neglected to assess a reduction of 160 days in accordance with 37 CFR 1.704(c)(7) in connection with the Sequence Listing filed August 15, 2007, in response to a Notice to Comply With Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures, mailed January 11, 2007. The reduction commenced March 9, 2007, the day after the date the initial reply – a defective Sequence Listing - was filed, and ended August 15, 2007, the date that the compliant Sequence Listing was filed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **zero (0) days**, (zero (0) days PTO delay, reduced by 231 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.

Any request for reconsideration of this decision must be submitted within ONE MONTH of the mail date indicated herein. The time period for seeking reconsideration is not subject to extension under 37 CFR 1.136.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ZERO (0) DAYS**.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,544,786 B2

DATED : June 9, 2009

INVENTOR(S) : Aasly 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 11 days.

Delete the phrase "by 11 days" and insert – by 0 days--

01 MAR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
1727 King Street, Suite 105
Alexandria, VA 22314-2700

In re Application of	:	
PETRINI, Piero *et al*	:	
U.S. Application No.: 10/568,415	:	
PCT No.: PCT/IT2004/000148	:	**DECISION ON**
Int. Filing Date: 24 March 2004	:	**PETITION FOR REVIVAL**
Priority Date: 28 March 2003	:	**UNDER 37 CFR 1.137(b)**
Attorney Docket No.: 06008	:	
For: INTERLAMINAR VERTEBRAL	:	
PROSTHESIS	:	

Applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 14 February 2006 is hereby **GRANTED** as follows:

The basic national fee and petition fee for a small entity have been paid. Applicants' statement in the petition is sufficient to satisfy 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was provided. The surcharge fee of $65.00 pursuant to 37 CFR 1.492(h) was charged to Deposit Account No. 04-0753 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 24 March 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 14 February 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

UNITED STATES PATENT and TRADEMARK OFFICE

18 JUN 2008

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
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PEARL COHEN ZEDEK LATZER, LLP
1500 Broadway, 12th Floor
New York, New York 10036

In re Application of	:	
Yehuda Et al	:	DECISION ON
Application No.: 10/568,421	:	
PCT No.: PCT/IL2004/000752	:	
Int. Filing Date: 17 August 2004	:	PETITION UNDER
Priority Date: 19 August 2003	:	
Attorney Docket No.: P5767US	:	
For: KIT FOR HOME PREPARATION OF SUSHI	:	37 CFR 1.181

This decision is in response to the "COMMUNICATION IN RESPONSE TO THE NOTICE OF ABANDONMENT," filed on 01 MAY 2008 which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of Abandonment.

BACKGROUND

On 14 February 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). Applicants, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed Declaration or Oath was provided with the transmittal letter at such time.

On 13 September 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by the International application number and international filing date, in that it is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. The notice indicated that the items above must be submitted within two (2) months from the date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 03 April 2008, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) which indicated that the application is abandoned because applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905) mailed 09/13/2006 within the time period set therein.

On 01 May 2008, petitioner filed the current petition stating that USPTO erroneously mailed the Notice to Banner & Witcoff, Ltd., the wrong law firm. Since the proper law firm, Pearl Cohen Zedek latzer, LLP, did not receive the Notice, applicants could not have responded to it.

DISCUSSION

A review of the file shows that indeed the USPTO erroneously mailed the Notice to the wrong law firm. Accordingly, applicants did have the Notice to respond to it in a timely manner. As a result, the Notice of Abandonment mailed 03 April 2008 was mailed in error.

DECISION

The petition under 37 CFR 1.181 is **GRANTED**. The Notification of Abandonment (PCT/DO/EO/909) mailed 03 April 2008 was in error and is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 and for issuing a **new Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905)**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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2 6 MAR 2008

Novartis Vaccines and Diagnostics Inc.
Intellectual Property R338
P.O. Box 8097
Emeryville CA 94662-8097

In re Application of
RAPPUOLI
Application No.: 10/568,422
PCT No.: PCT/US04/30032
Int. Filing Date: 15 September 2004
Priority Date: 15 September 2003
Attorney Docket No.: 002441.00189
For: IMMUNOGENIC COMPOSITIONS FOR STREPTOCOCCUS AGALACTIAE

DECISION ON REQUEST

This decision is issued in response to applicants' "Response to Notification of Missing Requirements" filed 22 October 2007, which is being treated as a request under 37 CFR 1.497(d) to correct the inventorship of the present national stage application. Deposit Account No. 19-0033 has been charged the required processing fee.

BACKGROUND

On 15 September 2004, applicants filed international application PCT/US04/30032 which claimed a priority date of 15 September 2003. The published international application identified one applicant/inventor for the United States: Rino Rappuoli. The deadline for submission of the basic national fee was to expire thirty months from the priority date, 15 March 2006.

On 14 February 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.

On 22 March 2007, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. Furthermore, the Notification indicated that a Sequence Listing had not been filed as required by 37 CFR 1.821(c) and (e). The notification set a two-month time limit in which to respond.

On 22 October 2007, applicants submitted the present request and a declaration executed by: John Telford, Guido Grandi, Immaculada Margarit Y. Ros, and Domenico Maione.[1]

DISCUSSION

As defined in 37 CFR 1.9(a)(3), a U.S. national stage application must first comply with the requirements of 35 U.S.C. 371(c) to constitute a "nonprovisional" application, therefore, applicants' request will be treated under 37 CFR 1.497(d). The present submission seeks to correct the inventorship so as to add inventors John Telford, Guido Grandi, Immaculada Margarit Y. Ros, and Domenico Maione to the application. Additionally, applicant requests to delete Rino Rappuoli as an applicant/inventor. 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 statements from the inventors being added, John Telford, Guido Grandi, Immaculada Margarit Y. Ros, and Domenico Maione, in which the inventors state that the earlier error in inventorship occurred without any deceptive intent on his/her part. Further, applicants have submitted a statement from the inventor being removed, Rino Rappuoli, in which the inventor states that the error in inventorship occurred without any deceptive intent on his part. Item (1) is therefore satisfied.

---

[1]Applicants' submission included a copy of the sequence listing (paper copy and computer readable form) previously filed on 14 February 2006.

With respect to item (2), applicants have submitted the required $130 processing fee. Item (2) is therefore satisfied.

With respect to item (3), applicants state that Rino Rappuoli did not execute an assignment, therefore, a consent of the assignee is not required. 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**.

John Telford, Guido Grandi, Immaculada Margarit Y. Ros, and Domenico Maione are added as inventors herein. Rino Rappuoli has been deleted as an inventor.

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
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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Dickinson Wright PLLC
James E. Ledbetter, Esq.
International Square
1875 Eye Street, N.W., Suite 1200
Washington, DC 20006

Mail Date: 04/21/2010

Applicant	: Atsushi Matsumoto	: DECISION ON REQUEST FOR
Patent Number	: 7580345	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/568,448	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **635** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ARENT FOX LLP
1050 Connecticut Avenue, N.W.
Suite 400
Washington, DC 20036

JAN 3 0 2008

In re Application of	:	DECISION ON REQUEST TO
Koichi NAKATA et al.	:	PARTICIPATE IN PATENT
Application No. 10/568505	:	PROSECUTION HIGHWAY
Filed: February 16, 2006	:	PILOT PROGRAM AND PETITION
Attorney Docket No. 108421-00127	:	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 January 3, 2008, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition is dismissed due to:

A First Action on the Merits was mailed on January 29, 2008.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to Kathryn Gorgos at 571 273-1012.

Telephone inquiries concerning this decision should be directed to Kathryn Gorgos at 571 272-1012.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

Kathryn Gorgos
TC 1700 TQAS

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

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JAN 16 2009

In re Application of	:	
Matsuo, et al.	:	
Application No. 10/568,505	:	DECISION ON PETITION
Filed: February 16, 2006	:	
Attorney Docket No. 108421-00127	:	
For: CATALYST FOR CLARIFYING EXHAUST GAS AND METHOD FOR PREPARATION THEREOF, AND EXHAUST GAS CLARIFICATION CATALYST DEVICE FOR VEHICLE		

This is a decision on the petition under 37 CFR 1.182, filed November 21, 2008, to withdraw two terminal disclaimers filed on April 29, 2008 in the above-identified application.

The petition under 37 CFR 1.182 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 1.182." Petitioners are advised that this is not a final agency decision.

Petitioners request that the terminal disclaimers, filed April 29, 2008, in response to the rejections based on obviousness-type double patenting made in the January 29, 2008 non-final Office action be withdrawn. Petitioners assert the aforementioned terminal disclaimers were "entered inadvertently." Petitioners have not demonstrated that the circumstances of this application warrant the relief requested.

Inspection of the prosecution history of the instant application reveals that the terminal disclaimers were submitted to overcome rejections for obviousness-type double patenting over the several claims of U.S. Patent Application No. 11/032,233 and U.S. Patent No. 7,199,079. Petitioners assert that the terminal disclaimers were entered inadvertently. However, the first paragraph of page 7 of the remarks filed with amendment on April 29, 2008 clearly indicates applicants were intending to file the terminal disclaimers in order to overcome the obviousness-type double patenting rejections by the examiner. The filing of the terminal disclaimers was not a simple mistake

It appears that petitioners are seeking to reopen the question of the propriety of the rejections made in the Office action of January 29, 2008. In essence, petitioners are attempting, by petition, to have the Office

determine whether the double patenting rejections were proper. MPEP 1490 sets forth in pertinent part, "Petitions seeking to reopen the question of the propriety of the double patenting rejection that prompted the filing of the terminal disclaimer have not been favorably considered."

It is the long-established policy of the Patent and Trademark Office to maintain the line of demarcation between petitionable and appealable subject matter. MPEP 1201. When the question of whether or not a given set of claims in one application or patent is distinct, or lies within the aegis of 35 U.S.C. 121, from another set of claims in another application or patent with respect to obviousness-type double patenting arises, that question relates to the merits of an invention, and the appropriate remedy for resolution of that issue ultimately lies by appeal as provided by statute. See e.g. In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985). As noted by the court in In re Faust, 378 F.2d 966, 153 USPQ 813 (CCPA 1967) "the terminal disclaimer eliminates the necessity of considering what are most often exceedingly difficult questions. i.e., whether the subject matter of the appealed claims is obvious in view of the patent claims relied on as the basis for 'double patenting,' thus conserving judicial man hours both here and in the Patent Office." Further, it is well settled that the Director will not, on petition, usurp the functions or impinge upon the jurisdiction of the Board. See In re Dickerson, 299 F.2d 954, 958, 133 USPQ 39, 43 (CCPA 1962); Bayley's Restaurant v. Bailey's of Boston, Inc., 170 USPQ 43, 44 (Comm'r Pat. 1971).

Even assuming, *arguendo*, the relief requested should be considered on petition, petitioners are reminded that, as a general rule, public policy does not favor the restoration to the patentee [applicant] of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner, e.g., intervening rights in the case of a reissue patent. See Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935). Petitioners have failed to provide a reasonable, much less any, assurance that the public interest will, or can be, protected if the relief requested in this petition is given favorable consideration. In this regard, an applicant's use, and Office acceptance, of a terminal disclaimer is in the public interest because such encourages the disclosure of additional developments, the earlier filing of patent applications, and the earlier expiration of patents whereby the inventions covered become freely available to the public. See In re Jentoft, 392 F.2d 633, 157 USPQ 363 (CCPA 1968). It is brought to petitioners' attention that the principle against recapturing something that has been intentionally dedicated to the public dates back at least to Leggett v. Avery, 101 U.S. 246 (1879). While petitioners may now consider the previously filed disclaimers to be unnecessary, or unnecessarily limiting, petitioners are, nevertheless, confronted with what has been characterized as "an unhappy circumstance", rather than a circumstance(s) necessitating relief. Jentoft at 639 n. 6, 157 USPQ at 368 n. 6.

Petitioners had the opportunity to challenge the need for a terminal disclaimer, on appeal, but instead freely chose to file a terminal disclaimer to avoid the rejection. Moreover, petitioners have provided no explanation as to why filing of the terminal disclaimers, as opposed to contesting the propriety of the rejection, was caused or contributed to by circumstances beyond petitioners' control. Such does not afford proper legal or public policy grounds for requesting nullification of the terms of free dedication to the public contained in the previously filed terminal disclaimers by way of appeal, much less on petition. Cf. Ex Parte Anthony, 230 USPQ 467 (PBAI 1982) aff'd. No. 84-1357 (Fed. Cir. June 14, 1985).

Petitioners may wish to take note of MPEP 1490 which states in part, "The filing of a continuation application other than a CPA, while abandoning the application in which the terminal disclaimer has been filed, will typically nullify the effect of a terminal disclaimer."

The file is being forwarded to Technology Center 1793 for consideration of the amendment filed on November 21, 2008.

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) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAIL

FEB 07 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
SUGISAWA, KOUTAROU, et al.
Application No. 10/568,508
Filed: February 16, 2006
For: **COMMUNICATION APPARATUS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed August 11, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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06 JUL 2006

Jay S. Cinamon
ABELMAN, FRAYNE & SCHWAB
666 3rd Avenue, 10th Floor
New York, NY 10017

In re Application of:	:	
SOORIAKUMAR, Kathirgamasundaram, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/568,514	:	
PCT No.: PCT/SG2004/000240	:	
International Filing Date: 11 August 2004	:	
Priority Date: 14 August 2003	:	
Atty Docket No.: 207,468	:	
For: A THREE-AXIS ACCELEROMETER	:	

This decision is issued in response to the "Petition Under 37 CFR 1.10(c) To Correct Filing Date And Date-In Discrepancy" filed 22 May 2006. No petition fee is required.

BACKGROUND

On 11 August 2004, applicants filed international application PCT/SG2004/000240. The application claimed a priority date of 14 August 2003 and it designated the United States. On 24 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., 14 February 2006.

In February 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.

The receipt postcard confirming this submission was returned to applicants bearing a USPTO receipt stamp dated 15 February 2006.

On 22 May 2006, applicants filed the petition considered herein. The petition asserts that the correct filing date for the materials initiating this national stage application is 14 February 2006.

DISCUSSION

The materials filed by applicants to initiate this national stage application included a Form PTO-1390 transmittal letter. This transmittal letter contained included a "Statement Of Filing By Express Mail" that identified the "Express Mail" label number (ER059675365US) and the date of deposit (14 February 2006). The present petition includes a copy of the "Express

Mail" label number ER059675365US. The "date in" on this label is blank; however, the label bears a USPS stamp dated 14 February 2006.

Based on applicants' statements in the present petition, the "Statement Of Filing By Express Mail" contained on the Form PTO-1390, and the 14 February 2006 USPS stamp on the "Express Mail" label, it is concluded that the materials filed to initiate this national stage application (including the basic national fee) were deposited with the USPS as "Express Mail" on 14 February 2006. Pursuant to 37 CFR 1.10(c), these materials are properly accorded a filing date of 14 February 2006.

It is noted that the present petition included a $130 petition fee. Because no fee is required for the present petition, this fee will be refunded to Deposit Account No. 01-0035.

CONCLUSION

Applicants' petition under 37 CFR 1.10(c) is **GRANTED**.

The materials filed to initiate this national stage application, including the payment of the basic national fee, are properly accorded a filing date of 14 February 2006, prior to the expiration of thirty months from the priority date.

The $130 petition fee included with the present petition will be refunded to Deposit Account No. 01-0035.

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 and the surcharge for filing the oath or declaration later than thirty months from the priority date.

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

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JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM, NC 27707

Mail Date: 04/21/2010

Applicant	: Reiji Kannagi	: DECISION ON REQUEST FOR
Patent Number	: 7601348	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/568,544	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **86** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

09 MAR 2006

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Timothy J. Martin
Martin & Henson, P.C.
9250 W. 5th Avenue, Suite 200
Lakewood, Colorado 80226

In re Application of RINCOE Application No.: 10/568,547 PCT No.: PCT/US04/20501 Int. Filing Date: 24 June 2004 Priority Date: 24 June 2003 Atty. Docket No.: 2068 For: FORCE APPLYING APPARATUS AND METHOD	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 15 February 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

The application has an international filing date of 24 June 2004 under 35 U.S.C. 363 and will be given a date of **15 February 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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Michael R. Henson & Associates, LLC
5613 DTC Parkway
Suite 240
Greenwood Village CO 80111

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OFFICE OF PETITIONS

In re Application of	:	
Richard G. Rincoe	:	
Application No. 10/568,547	:	DECISION ON PETITION
Filed: February 15, 2006	:	
Attorney Docket No. RVS-np1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed August 31, 2007 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 1, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Election, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 3723 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Application No: 10/568,547 Date: 10/9/08

CHECKLIST - PETITION TO REVIVE (UNINTENTIONAL) 37 CFR 1.137(b)

Petition under 37 CFR 1.137(b) requires:

1. Petition fee;
2. Reply and/or issue fee;
3. Terminal disclaimer with disclaimer fee - utility and plant filed before 6/8/95 and all design cases;
4. Statement that the entire delay was unintentional.

Petition Date: 6/30/08

Petition Fee: (✓)$770/SM ( ) $1540/LG ( ) Not Paid

Is statement of unintentional delay present? (✓)YES ( )NO (Can statement be construed as unintentional?)

Is petition signed by attorney of record? (✓)YES ( )NO Petition address the same as address in palm. (✓)YES ( )NO

Mail Date of Office Action: 8/31/07

Type of Office Action: Restriction Requirement

Statutory Response Period Set: (✓)30 days (✓)1 month ( ) 2 months ( ) 3 months

Ext of time obtained w/in SSP: ( )None ( )1 month ( )2 months ( )3 months ( )4 months

Abandonment Date: 10/2/08

Type of reply received: Election

Terminal Disclaimer required: ( )YES (✓)NO (utility applications filed after 6/8/95 or before 5/29/00 and all design applications)

Petition Decision Codes

502 - 37 CFR 1.137(b) Revival based on unintentional delay in abandon application
510 - 37 CFR 1.137(b) Revival to accept late payment of issue fee (unintentional)

502 granted

Fee Codes

1453/2453 *$1540/$770* *502/510 Petitions*

Paralegal: Johnie ( )Dismissed (✓)Granted

MAG:01/07

Attorney/Agent Information for 10/568547

Customer # 74043

Attorney/Agent Name	Attorney/Agent Registration Number	Attorney/Agent Telephone Number
HENSON, MICHAEL	39222 (Attorney)	(303)295-8282
CARPENTER, JOHN	57830 (Attorney)	(303)295-8043

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Correspondence Address for 10/568547

Customer Number	Contact Information	Address
74043 Delivery Mode: Paper	Telephone: (303)220-9922 Fax: (303)220-9929 E-Mail: jcarpenter@mhipfirm.com	Michael R. Henson & Associates, LLC 5613 DTC Parkway Suite 240 Greenwood Village CO 80111

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Inventor Information for 10/568547

Inventor Name	City	State/Country
RINCOE, RICHARD G.	EPHRATA	WASHINGTON

Appln Info | Contents | Petition Info | Atty/Agent Info | Continuity/Reexam | Foreign

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PTO/SB/64 (01-08)
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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) RVS.np1

First named inventor: Richard G. Rincoe

Application No.: 10/568,547 Art Unit: 3723

Filed: 2/15/2006 Examiner: Wilson, Lee D

Title: FORCE APPLYING APPARATUS AND METHOD

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☑ Small entity-fee $ 770.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Election without Traverse (identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 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: Mail Stop Petition, 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.

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.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/John Wray Carpenter/	June 20, 2008
Signature	Date
John W. Carpenter	57,830
Typed or printed name	Registration Number, if applicable
5613 DTC Parkway, Suite 240	303.220.9922
Address	Telephone Number
Greenwood Village, CO 80111	
Address	

Enclosures:
☑ Fee Payment
☑ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Two Prudential Plaza Suite 4900
180 North Stetson Avenue
Chicago, IL 60601

Mail Date: 04/21/2010

Applicant	: Xiaodong Zhao	: DECISION ON REQUEST FOR
Patent Number	: 7627100	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/568,567	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **86** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

20 NOV 2006

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

FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO CA 94111

In re Application of GLUCKMAN et al. Application No.: 10/568,573 PCT No.: PCT/US04/27187 Int. Filing Date: 19 August 2004 Priority Date: 20 August 2003 Attorney's Docket No.: ERNZ-01016US3 For: SOMATOGENIC THERAPY USING A 20KDA PLACENTAL VARIANT OF GROWTH HORMONE	DECISION ON PETITION

This is a decision on applicant's request to review finance record and charge of search fee, filed in the United States Patent and Trademark Office (USPTO) on 21 September 2006. Applicant requests review of the fees in the above referenced application and states that the search fee of $200 was not paid and $150 was credited to the deposit account.

On 16 February 2006, applicant filed a transmittal letter to enter national stage along with the basic national fee in the amount of $150 (small entity). The search fee of $200 and examination fee of $100 were also paid by check. Thereafter, the $200 search fee was refunded and on 24 February 2006, a $50 search fee was applied. On 13 July 2006, a $150 replenishment was credited to applicant's deposit account.

On 21 September 2006, applicant filed a request to review the credit of $150 to the deposit account, indicating that national stage search fee (fee code 2642 -small entity) of $200 is appropriate where the European Patent Office (EPO) prepared the search report.

A review of the application file reveals that the EPO did prepare the search report. The appropriate national search fee in the above referenced application for filing with an European Patent Office search report is $200 (small entity). A review of the finance records for this application reveals that applicant was charged $50 for the national search fee. Since the appropriate fee is $200 for national search fee for filing with a EPO search report, applicant will be charged the additional $150.

For the reasons above, applicant's request for review and charge of the additional $150, filed 21 September 2006, is GRANTED. Applicant's deposit account No. 06-1325 will be charged in the amount of $150 (totaling $200 national stage search fee (fee code 2642)) so that the national search fee will be paid.

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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: 571-272-3286

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,603	06/19/2006	Nicolai Bohm	101769344WCG	9179

7590 02/25/2009
NORRIS, MCLAUGHLIN & MARCUS, P.A.
875 THIRD AVE
18TH FLOOR
NEW YORK, NY 10022

EXAMINER
KOKKINOS, NICHOLAS C

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
02/25/2009	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

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

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

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

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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

MAILED

MAR 23 2009

OFFICE OF PETITIONS

In re Application of
Choon **JONG**
Application No. 10/568,624
Filed: June 17, 2006
Attorney Docket No. **P29367**

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 19, 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 6, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2839 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

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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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LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK, NY 10023

Mail Date: 04/20/2010

Applicant	: Gerrit Dirk Keizer	: DECISION ON REQUEST FOR
Patent Number	: 7618829	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/568,633	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/26/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **346** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

09 MAR 2006

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

In re Application of ZIGER	:	
Application No.: 10/568,653	:	
PCT No.: PCT/IB04/02546	:	DECISION ON
Int. Filing: 07 August 2004	:	
Priority Date: 08 August 2003	:	PETITION TO REVIVE
Attorney Docket No.: US03 0286 US3	:	
For: METHOD FOR DETERMINING OPTIMAL	:	UNDER 37 CFR 1.137(b)
RESIST THICKNESS	:	

The petition to revive under 37 CFR 1.137(b) filed 15 February 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 15 February 2006.

Cynthia M. Kratz

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

Telephone: (571) 272-3286

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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	: Peter Schwarzler	: DECISION ON REQUEST FOR
Patent Number	: 7591730	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/568,670	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **659** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GKN Driveline/TTG
c/o Kristin L. Murphy
39533 Woodward Avenue, suite 140
Bloomfield Hills, MI 48304

Mail Date: 05/18/2010

Applicant : Peter Schwarzler
Patent Number : 7591730
Issue Date : 09/22/2009
Application No : 10/568,670
Filed : 05/19/2006

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

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

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

The patent term adjustment has been determined to be **709** 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/24/09

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/568,673 Patent No.: 7,522,544

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Certificates of Correction Branch

703-756-1573

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: _____

Lester Kincaid
Digitally signed by Lester Kincaid
DN: cn=Lester Kincaid, c=US, o=Patents, ou=2617, email=lester.kincaid@uspto.gov
Date: 2009.11.24 15:54:28 -05'00'

SPE

2617

Art Unit

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FOLEY & LARDNER LLP
3000 K Street, N.W., Suite 500
Washington, DC 20007

07 NOV 2006

In re Application of
BROOM, Murray F.
U.S. Application No.: 10/568,705
PCT No.: PCT/NZ2004/000191
Int. Filing Date: 20 August 2004
Priority Date: 21 August 2003
Attorney Docket No.: 061967-0103
For: SAMPLING DEVICE

DECISION

This decision is in response to the "Petition Under 37 C.F.R. § 1.47(b)" ("Pet.") filed with the United States Designated/Elected Office (DO/EO/US) on 10 August 2006.

BACKGROUND

On 05 July 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicants were given two months to respond with extensions of time available.

On 10 August 2006, applicants filed the subject petition which was accompanied by, inter alia, a declaration signed by the 37 CFR 1.47(b) applicant for the nonsigning inventor; a statement of facts signed by Diana F. Hill, CEO of the Global Technologies Ltd.; copies of two assignments; and authorization to charge any required fee to Deposit Account No. 19-0741.

DISCUSSION

Petitioner filed the subject petition in response to the Form PCT/DO/EO/905 mailed 05 July 2006. The 37 CFR 1.47(b) applicant claims that the sole inventor in the above-captioned application refuses to cooperate.

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of the nonsigning joint inventor (5) evidence showing sufficient proprietary interest in the application; and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Concerning item (1), the petition fee is now $200.00. Petitioner submitted a $130.00 petition fee. The $70.00 difference has been charged to Deposit Account No. 19-0741 as authorized.

Regarding item (2), the 37 CFR 1.47(a) applicant claims that the sole inventor refuses to join in the application. Petitioner states that a complete copy of the application was presented to Mr. Broom 29 March 2006. Petitioner has submitted documentary evidence to verify this claim. Moreover, petitioner submitted a statement by Diana F. Hill, CEO of the Global Technologies Ltd. who claims that she received a telephone call from the sole inventor on 03 April 2006 informing her that he would not sign the documents in the subject application. Ms. Hill listed Mr. Broom's reasons for refusing to cooperate as required by section 409.03(d) of the MPEP.

This conduct by Mr. Broom constitutes an oral refusal to cooperate and is sufficient to meet the requirements of item (2) of 37 CFR 1.47(b).

With regards to item (3), the last known address of the nonsigning joint inventor, Murray Frederick Broom is given as:

6 Pleasant Drive
Dunedin
New Zealand

Concerning item (4), the 37 CFR 1.47(b) applicant submitted a declaration signed by Diana F. Hill, CEO of the Global Technologies (NZ) Ltd. on behalf of Mr. Broom. The position of CEO is presumed to have the authority to sign for an organization. *See* MPEP § 324.

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

Regarding item (6), the 37 CFR 1.47(b) applicant states that filing this petition "is necessary to preserve the right of Global Technologies (NZ) Ltd. in the invention." This statement satisfies item (6).

Hence, items (1), (2), (3), (4) and (6) of 37 CFR 1.47(b) are complete.

With regards to item (5), petitioner claims sufficient propriety interest in the above-captioned application due to fact that the inventor assigned their interest in the subject application to Global Technologies (NZ) Ltd. Section 409.03(f) of the MPEP discusses proof of proprietary interest and states, in part:

If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324).

Here, petitioner has provided a copy of the assignment of the international application to Global Technologies (NZ) Ltd. signed by Mr. Broom. This assignment gives the right of the assignee to file in any country of the world and is acceptable. However, petitioner has not submitted a statement under 37 CFR 3.73(b) by the assignee as required.

Therefore, item (5) of 37 CFR 1.47(b) is not yet satisfied.

CONCLUSION

For the reason discussed above, applicant's petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

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

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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FOLEY & LARDNER LLP
3000 K Street, N.W., Suite 500
Washington, DC 20007

0 9 MAY 2007

In re Application of
BROOM, Murray F.
U.S. Application No.: 10/568,705
PCT No.: PCT/NZ2004/000191
Int. Filing Date: 20 August 2004
Priority Date: 21 August 2003
Attorney Docket No.: 061967-0103
For: SAMPLING DEVICE

DECISION

This decision is in response to the papers filed 08 December 2006 which are treated as a renewed petition under 37 CFR 1.47(b).

BACKGROUND

On 07 November 2006, a decision dismissing applicant's petition under 37 CFR 1.47(b) was mailed. The 37 CFR 1.47(b) applicant failed to meet the requirements of item (5) of 37 CFR 1.47(b).

On 08 December 2006, petitioner submitted the required statement under 37 CFR 3.73(b).

DISCUSSION

Applicant satisfied items (1), (3), (4) and (6) of 37 CFR 1.47(b) in the initial petition.

Regarding item (5), petitioner claimed sufficient propriety interest by virtue of an assignment to Global Technologies (NZ) Ltd. However, petitioner did not provide a statement under 37 CFR 3.73(b) by the assignee as required by section 409.03(f) of the MPEP.

In the renewed petition, the 37 CFR 1.47(b) applicant has provided a statement under 37 CFR 3.73(b) by the assignee. The statement was signed by Diana F. Hill, the Chief Executive Officer of the assignee, Global Technologies (NZ) Ltd. A statement that Ms. Hill is authorized to act on behalf of the assignee was also included. Item (5) is now complete.

Accordingly, the 37 CFR 1.47(b) applicant has now met all of the requirements of 37 CFR 1.47(b).

10/568,705

CONCLUSION

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

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at the last known address of record as set forth in the papers filed 10 August 2006 and a notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 20 August 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 10 August 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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2 9 APR 2008

DORITY AND MANNING
55 BEATTIE PLACE STE 1600
ONE LIBERTY SQUARE
GREENVILLE, SC 29601

In re Application of YOUNG, et al. Application No.: 10/568,717 PCT No.: PCT/US04/26308 Int. Filing Date: 13 August 2004 Priority Date: 13 August 2004 Attorney Docket No.: MIC-87-PCT-US (P50-0115) For: AUTOMATIC PRESSURE AND TEMPERATURE CONTROL APPARATUS AND METHOD FOR CURING TIRE ASSEMBLIES	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's petition under 37 CFR 1.181 filed 23 April 2008 in the United States Patent and Trademark Office (USPTO) to reconstruct the above-captioned U.S. National stage filing under 35 U.S.C. 371. No petition fee is required.

BACKGROUND

On 13 August 2004, applicant filed international application PCT/US04/26308 without a claim of priority to an earlier application. 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, 13 February 2007.

On 14 May 2007, applicant filed a change of correspondence form.

On 20 February 2008, applicant filed a status inquiry as to the above-captioned application.

On 23 April 2008, applicant filed a petition to reconstruct the application which was accompanied, inter alia; by itemized post card receipt stamped with a receipt date of 17 February 2006 and true copies of papers purportedly filed 17 February 2006, namely, a Transmittal Letter concerning a filing under 35 U.S.C. 371; a transmittal letter to the United States Receiving Office (RO/US) and a copy of the international application with claims, abstract and three sheets of drawings.

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here,

applicant has provided a copy of the date-stamped postcard receipt, as well as, a complete copy of the prior filing and certification that the copy currently provided is a true and complete copy of the papers filed on 17 February 2006. The postcard identifies the application by international application number, title and attorney docket number. Among the items listed on the receipt are: "Credit Card Payment Form" and "Transmittal Letter to the United States Designated/Elected Office (EO/EO/US)." The receipt is stamped "IAP6 Rec'd PCT/PTO 17 FEB 2006." The postcard has not been annotated in any way to indicate that any of the listed items were not received. Thus, it is clear that applicant filed papers for entry into the United States national stage on 17 February 2006 and it is proper to grant applicant's petition to reconstruct the application file at this time.

It is noted that a review of the fee record for the present application confirms applicant's payment by credit card of the full, U.S. Basic National Fee on 17 February 2006. As such, it is clear that applicant provided payment prior to the expiration of 30 months from the priority date.

The above papers are accepted as having been filed on 17 February 2006 and will be used to reconstruct the National Stage application file. It is noted that applicant's postcard also lists an Information Disclosure Statement cover sheet (2 sheets) and Information Disclosure Sheet (1 sheet). It does not appear that applicant has included a copy of these items with the present petition.

CONCLUSION

For the reasons detailed above, the petition to reconstruct under 37 CFR 1.181 is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for processing in accordance with this decision, that is, for issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905), to inform applicant that an oath or declaration of the inventors in compliance with 37 CFR 1.497 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

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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	: Alan K. Greenwood	: DECISION ON REQUEST FOR
Patent Number	: 7600703	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/568,726	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **340** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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In re Application of
John L. Russell Jr

Application No. 10568728

Filed: February 17,2006

Attorney Docket No. IBT1.073-US

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 06-OCT-2009 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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02 NOV 2006

SIEMENS CORPORATION
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

In re Application of	:	
TIEMANN, Peter	:	
Application No.: 10/568,735	:	
PCT No.: PCT/EP2004/007947	:	
Int. Filing Date: 16 July 2004	:	
Priority Date: 18 August 2003	:	**DECISION**
Attorney Docket No.: 2003P11342WOUS	:	
For: DIFFUSER FOR A GAS TURBINE,	:	
AND GAS TURBINE FOR POWER	:	
GENERATION	:	

This is a decision on the declaration filed with the national stage papers on 17 February 2006 which has been treated as a petition under 37 CFR 1.42.

BACKGROUND

On 17 February 2006, applicant filed papers to enter the national stage of PCT/EP2004/007947 which was accompanied by, *inter alia*, an executed declaration.

DISCUSSION

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

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

Applicant submitted a declaration signed by Iris Olfmans as the legal representative of the sole inventor, Peter Tiemann, who is listed as comatose. The required information of the inventor is recorded on the declaration pursuant to 37 CFR 1.497(a).

However, the citizenship, residence and address of the legal representative are omitted. *See* 37 CFR 1.497(b)(2). As such, the declaration does not comply with 37 CFR 1.497(a) and (b).

CONCLUSION

The papers filed under 37 CFR 1.42 are **DISMISSED**.

Applicant is required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

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

15 DEC 2006

SIEMENS CORPORATION
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

In re Application of TIEMANN, Peter Application No.: 10/568,735 PCT No.: PCT/EP2004/007947 Int. Filing Date: 16 July 2004 Priority Date: 18 August 2003 Attorney Docket No.: 2003P11342WOUS For: DIFFUSER FOR A GAS TURBINE, AND GAS TURBINE FOR POWER GENERATION	:	**DECISION**

This is a decision on the papers filed via facsimile on 12 December 2006 which are treated as a renewed petition under 37 CFR 1.43.

BACKGROUND

On 02 November 2006, a decision dismissing applicant's petition was mailed. The declaration was regarded as not to contain all of the information required by 37 CFR 1.497. Applicants were given two months to respond.

On 12 December 2006, applicants filed the subject response.

DISCUSSION

It is first noted that the prior decision erroneously noted that the decision was based upon a legal representative of a deceased inventor under 37 CFR 1.42. The decision should have stated that it was based upon a legal representative of an inventor who is legally incapacitated pursuant to 37 CFR 1.43.

The declaration signed by Iris Olfmans as the legal representative of the sole inventor, Peter Tiemann, who is listed as comatose was filed on 17 February 2006. Only information for the inventor was recorded on the declaration. As such, the declaration was held not in compliance with 37 CFR 1.497.

In response, counsel affirms "that the citizenship, residence and address of comatose inventor Peter Tiemann and his legal representative are the same." This clarifying statement has been accepted as a sufficient response. The declaration filed 17 February 2006 is now in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

The papers filed under 37 CFR 1.43 are **ACCEPTED**.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 16 July 2004, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 17 February 2006.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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

Mail Date: 04/20/2010

Applicant	: Beatrice Martin	: DECISION ON REQUEST FOR
Patent Number	: 7580700	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/568,743	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/31/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **507** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

25 SEP 2008

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Darby & Darby, P.C.
P.O. Box 770
Church Street Station
New York, NY 10008-0770

In re Application of	:	
KHAMAR, et al.	:	
Application No.: 10/568,747	:	
PCT No.: PCT/IB04/02571	:	DECISION ON PETITION
Int. Filing Date: 02 August 2004	:	
Priority Date: 18 August 2003	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 21059/0206954-US0	:	
For: STABLE PHARMACEUTICAL COMPOSITION	:	
OF RABEPRAZOLE	:	

The renewed petition to revive under 37 CFR 1.137(b) filed 19 December 2007 in the above-captioned application is hereby **GRANTED** as follows:

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

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

The application has an international filing date of 18 August 2003 under 35 U.S.C. 363 and will be given a date of **19 December 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,749	11/01/2007	Pascal Paillier	1032326-000384	6668

EXAMINER

7590 03/26/2008
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

ART UNIT	PAPER NUMBER
2131	

NOTIFICATION DATE	DELIVERY MODE
03/26/2008	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/20/2010

Applicant	: Lars Lietzau	: DECISION ON REQUEST FOR
Patent Number	: 7575785	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/568,783	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **170** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

In re Application of	:	
Robert Huber	:	
Application No. 10/568,791	:	DECISION ON PETITION
Filed: July 12, 2007	:	TO WITHDRAW
Attorney Docket No. 11336-1281 (P03140US)	:	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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GKN Driveline/TTG
c/o Kristin L. Murphy
39533 Woodward Avenue, suite 140
Bloomfield Hills, MI 48304

Mail Date: 04/21/2010

Applicant	: Heiko Harnischfeger	: DECISION ON REQUEST FOR
Patent Number	: 7648418	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/568,800	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **698** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.
10/568,826	05/29/2007	Masaaki Kanasugi	5053-2	6806

7590 04/13/2009
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
PARVEZ, AZM A

ART UNIT	PAPER NUMBER
4136	

MAIL DATE	DELIVERY MODE
04/13/2009	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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OFFICE OF PETITIONS

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

In re Application of	:	
Yves AUBERSON, et al	:	
Application No. 10/568,841	:	DECISION ON PETITION
Filed: September 13, 2006	:	TO WITHDRAW
Attorney Docket No. 093286-0122	:	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

02 JUL 2008

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Robert M. Schulman
Hunton & Williams LLP
1900 K Street, N.W.
Suite 1200
Washington, D.C. 20006-1109

In re Application of:	:	
CROOKS et al.	:	
US Application No.: 10/568,855	:	
PCT Application No.: PCT/EP2004/009777	:	
Int. Filing Date: 02 September 2004	:	DECISION
Priority Date: 03 September 2003	:	
Atty Docket No.: RNO3117	:	
For: NEW COPOLYMER HAVING A CONTROLLED STRUCTURE AND USE THEREOF	:	

This is in response to applicants' "PETITION TO WITHDRAW ABANDONMENT AND ACCEPT RESPONSE TO NOTICE TO FILE MISSING PARTS" filed on 09 April 2008, which is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 02 September 2004, applicants filed international application PCT/EP2004/009777, which claimed priority of an earlier US provision application 60/499,668 filed on 03 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 03 March 2006.

On 16 February 2006, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, inter alia, the basic national fee required by 35 U.S.C. 371 (C)(1).

On 31 August 2006, the DO/EO/US mailed a Notification of Missing Requirement Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US), which required an executed declaration with the surcharge as set forth in 37 CFR 1.492(h) of $65.

On 10 April 2008, applicants filed the present petition for non-receipt of the Notification of Missing Requirement Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) and withdraw the holding of abandonment.

DISCUSSION

A review of the application file reveals that the Notification of Missing Requirement Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) was mailed on 31 August 2006. The Notification was returned by the USPS as undeliverable on 14 September 2006. The envelope apparently was not labeled with applicant's address. Therefore, the Notification is hereby VACATED.

CONCLUSION

For the reason above, the 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. The 35 U.S.C. 371 (c)(1),(c)(2) and (c)(4) date is 09 April 2008.

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

Richard Cole
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

Nixon Peabody LLP
P.O. Box 60610
Palo Alto, CA 94306

Mail Date: 04/21/2010

Applicant	: Bosko Bojovic	: DECISION ON REQUEST FOR
Patent Number	: 7647093	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/568,868	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **480** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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1 2 AUG 2009

07055
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

In re Application of
NAITO *et al*
U.S. Application No.: 10/568,875
PCT No.: PCT/JP2004/012315
Int. Filing Date: 20 August 2004
Priority Date: 22 August 2003
Attorney Docket No.: P29251
For: SINGLET OXYGEN QUENCHER AND COMPOSITION USING THE SAME

DECISION

This decision is in response to the "Petition Under 37 CFR 1.181 for Entry of Corrected English Translation of International Application" filed 15 July 2009 which is hereby **GRANTED** as follows:

In the subject petition, applicants provided an English translation of the specification and claims which applicants assert is more accurate than the English translation originally submitted. Applicants' explain that certain Japanese characters may be translated as either "consisting of" or "comprising." The original translation provided in the above-captioned application on 21 February 2006 used "comprising" for the subject Japanese characters. However, applicants believe that "for chemical preparations such as colloidal liquid containing a metal species," the more accurate translation for the Japanese characters are "consisting of."

This explanation is accepted.

Applicants provided a new specification and claims showing the changes in the translation on page three, lines 20, 27 and 28 of the specification and claim one. The new translation is accepted. This results in the date of completion of the 35 U.S.C. 371(c)(2) requirement to be amended.

Accordingly, the Form PCT/DO/EO/903 and filing receipt mailed 19 January 2007 contain erroneous information and are both **VACATED**.

This application is being forwarded to the Office of Patent Application Processing to mail a corrected Form PCT/DO/EO/903 and filing receipt indicating a "Date of Receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements," "Date of Completion of all 35

10/568,875

U.S.C. 371 Requirements" and "Filing or 371(c) Date" of 15 July 2009.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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BURR & BROWN
PO BOX 7068
SYRACUSE NY 13261-7068

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JUN 0 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Jungo Kondo et al	:	
Application No. 10/568,888	:	DECISION GRANTING PETITION
Filed: February 17, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 811_074	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 5, 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 the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2883 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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PO BOX 7068
SYRACUSE NY 13261-7068

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OCT 08 2008
OFFICE OF PETITIONS

In re Application of	:	
Jungo Kondo, et al.	:	
Application No. 10/568,888	:	DECISION GRANTING PETITION
Filed: December 22, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 811_074	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 7, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 10, 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 2883 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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10 AUG 2007

Stroock & Stroock & Lavan, LLP
180 Maiden Lane
New York, New York 10038

In re Application of GLOCKL et al. U.S. Application No.: 10/568,891 PCT No.: PCT/EP04/09056 It. Filing Date: 12 August 2004 Priority Date: 19 August 2003 Attorney Docket No.: 4623910016 For: CHAIR OR STOOL COMPRISING MOBILE, ELASTIC LEGS, PERMITTING A DYNAMIC SITTING POSITION	:	DECISION ON PETITION

This decision is issued in response to applicants' "Petition under 37 CFR 1.47 Inventor Refuses to Sign" filed 23 April 2007 to accept the application without the signature of joint-inventor, Thomas Walser.

BACKGROUND

On 12 August 2004, applicants filed international application PCT/EP04/09056, which claimed priority of an earlier application filed 19 August 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 19 February 2006.

On 17 February 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 an application data sheet.

On 21 September 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 23 April 2007, applicants filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (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 Thomas Walser 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 Thomas Walser. The declaration of Rudiger Sperling states that he mailed a declaration/power of attorney and assignment to Thomas Walser on August 10, 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 Thomas Walser has been presented with a complete copy of the application papers as required. The mailing of an oath/declaration and assignment are 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 Thomas Walser, 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), the declaration filed on 23 April 2007 is defective and is insufficient to satisfy the oath or declaration requirement of 35 CFR 371(c)(4) for entry into the national stage in the United States of America. Specifically, the declaration submitted includes an alteration to the second inventor's name. (See MPEP §605.04(a) and 37 CFR 1.52(c)) Any changes made in ink in the application or oath prior to signing should be initiated and dated by the applicants prior to execution of the oath or declaration. The Office will not consider whether non-initialed and/or non-dated alteration were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). Therefore, a newly executed declaration is required.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Thomas Walser 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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12 DEC 2007

Stroock & Stroock & Lavan, LLP
180 Maiden Lane
New York, New York 10038

In re Application of	:	
GLOCKL et al.	:	
U.S. Application No.: 10/568,891	:	
PCT No.: PCT/EP04/09056	:	
It. Filing Date: 12 August 2004	:	
Priority Date: 19 August 2003	:	DECISION ON PETITION
Attorney Docket No.: 4623910016	:	
For: CHAIR OR STOOL COMPRISING MOBILE, ELASTIC LEGS, PERMITTING A DYNAMIC SITTING POSITION	:	

This decision is issued in response to applicants' "Renewed Petition under 37 CFR 1.47 Inventor Refuses to Sign" filed 10 October 2007 to accept the application without the signature of joint-inventor, Thomas Walser. Additionally, this decision is issued in response to applicants' "Supplemental Declaration" filed 24 October 2007 and the facsimile communication dated 11 December 2007.

BACKGROUND

On 12 August 2004, applicants filed international application PCT/EP04/09056, which claimed priority of an earlier application filed 19 August 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 19 February 2006.

On 17 February 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 an application data sheet.

On 21 September 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 23 April 2007, applicants filed the present petition under 37 CFR 1.47(a). In a decision dated 10 August 2007, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 10 October 2007, applicants filed a renewed petition under 37 CFR 1.47(a).

On 24 October 2007, applicants filed a "Supplemental Declaration" executed by Josef Glockl.

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 Thomas Walser'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 (Thomas Walser). 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.

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 of PCT Legal Administration
Tel.: (571) 272-3298
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

2 4 OCT 2008

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Stroock & Stroock & Lavan, LLP
180 Maiden Lane
New York, New York 10038

In re Application of	:	
GLOCKL et al.	:	
U.S. Application No.: 10/568,891	:	
PCT No.: PCT/EP04/09056	:	
It. Filing Date: 12 August 2004	:	
Priority Date: 19 August 2003	:	DECISION ON PETITION
Attorney Docket No.: 4623910016	:	
For: CHAIR OR STOOL COMPRISING MOBILE, ELASTIC LEGS, PERMITTING A DYNAMIC SITTING POSITION	:	

This decision is issued in response to applicants' "Petition Requesting Withdrawal of Notification of Defective Response Reissue of Notification of Missing Requirements" filed 02 July 2008, treated herein under 37 CFR 1.181. Additionally, this decision is issued in response to applicants' facsimile communication dated 14 August 2008.

BACKGROUND

On 12 August 2004, applicants filed international application PCT/EP04/09056, which claimed priority of an earlier application filed 19 August 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 19 February 2006.

On 17 February 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 an application data sheet.

On 21 September 2006, applicants were mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. In addition, applicants were notified of the need to provide a surcharge of $65.00 for filing the oath or declaration later than 30 months from the earliest priority date. (37 CFR 1.492(h)). Applicants were given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 23 April 2007, applicants filed a petition under 37 CFR 1.47(a). In a decision dated 10 August 2007, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 10 October 2007, applicants filed a renewed petition under 37 CFR 1.47(a). Additionally, on 24 October 2007, applicants filed a "Supplemental Declaration" executed by Josef Glockl. In decision dated 12 December 2007, applicants' renewed petition under 37 CFR 1.47(a) was GRANTED.

On 11 January 2008, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the current translation of the international application is defective (Figure 30a contained foreign text). Applicants were required to respond within one-month from the date of the notification or within the time remaining in the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) dated 21 September 2006.

On 02 July 2008 and 14 August 2008, applicants filed "Petition Requesting Withdrawal of Notification of Defective Response and Reissue of Missing Requirements."

On 22 August 2008, applicants filed "Letter Transmitting Replacement Drawings."

On 28 August 2008, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Acceptance of Application under 35 U.S.C. 371 (Form PCT/DO/EO/903) which indicated a date under 35 U.S.C. 371 of 22 August 2008.

DISCUSSION

As discussed above, the Notification Of Missing Requirements mailed 21 September 2006 identified only one outstanding requirement in the present application, an executed oath or declaration in compliance with 37 CFR 1.497. The Notification Of Missing Requirements did not identify any deficiency or outstanding requirement with respect to the translation of the international application. Applicants' 23 April 2007 response to the Notification of Missing Requirements included the requirement identified in the Notification Of Missing Requirements, that is, an executed declaration (or a petition under 37 CFR 1.47(a)). Applicants' 23 April 2007 submission was therefore an appropriate response to the Notification Of Missing Requirements.

The 11 January 2008 mailing of a Notification Of Defective Response requiring the submission of translation of the international application that had not been identified as outstanding requirement in the Notification Of Missing Requirements was therefore improper. The Notification Of Defective Response mailed 11 January 2008 is therefore appropriately vacated.

Based on the above, the present application did not become abandoned, by operation of law, for failure to file a timely response to the Notification Of Defective Response.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The Notification Of Defective Response (Form PCT/DO/EO/916) mailed 11 January 2008 is hereby **VACATED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) and the Official Filing Receipt mailed 28 August 2008 remain in effect.

The application will be forwarded to United States Designated/Elected Office for processing in accordance with this decision. Thereafter, it will be forwarded to the appropriate Art Unit.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GKN Driveline/TTG
c/o Kristin L. Murphy
39533 Woodward Avenue, suite 140
Bloomfield Hills, MI 48304

Mail Date: 04/21/2010

Applicant	: Peter Schwarzler	: DECISION ON REQUEST FOR
Patent Number	: 7632189	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/568,896	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/29/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **698** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : February 22,2010

TO SPE OF : ART UNIT 3679
SUBJECT : Request for Certificate of Correction for Appl. No /10/568896 patent 7632189

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

Magdalene Talley

Certificates of Correction Branch

571-272-0423

Thank You For Your Assistance

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

xx☒xx **Approved** — **All** changes apply.

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

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

Comments: Identified correction is approved.

/Daniel P. Stodola/ 3679

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : February 22,2010

TO SPE OF : ART UNIT 3679
SUBJECT : Request for Certificate of Correction for Appl. No /10/568896 patent 7632189

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

Magdalene Talley

Certificates of Correction Branch
571-272-0423

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: Identified correction is approved.

/Daniel P. Stodola/ 3679

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OCT 3 0 2009

BINGHAM MCHALE LLP
2700 MARKET TOWER
10 WEST MARKET STREET
INDIANAPLOIS, IN 46204-4900

In re application of: STRAETER	:	
Serial Number: 10/568,910	:	**PETITION UNDER 37 CFR 1.181**
FILED: February 14,2007	:	**FOR DIRECTOR REVIEW**
DOCKET NO. 17285-62738	:	**OF A RESTRICTION REQUIREMENT**
FOR: AIRFLOW-CONTROLLED COMBINE SHOE	:	

This is in response to the petition filed on June 26, 2009 for review of the restriction requirement as applied in an Advisory Action mailed on June 15, 2009, which was a result of the examiner holding claims 37-43 as being withdrawn from consideration as being directed to a non-elected invention as set forth in the Final Office action mailed April 3, 2009.

The petition is **DENIED**.

Applicant petitions for review of the Restriction Requirement as applied in the Advisory Action mailed on June 15,2009. In that Advisory Action the examiner failed to consider a claim within the selected species, see applicant's election in the Response to Restriction Requirement dated Jan. 28, 2008, that was properly brought before him. The effect of a Grant of this petition would be to find that claims 37-43 properly falls within the elected species and for the case to be returned to the examiner for the examination of claims 37-43 and the issuance of a non-final Office action. In the alternative it is requested that claims 37-43 be entered into the case for consideration on appeal.

A review of the record reveals that on November 27, 2007 a species restriction was mailed setting forth the requirement of the election of one species from a listing which included species I-VII. Applicant elected with traverse species IV corresponding to the embodiment shown in Figure 10 and identified claims 17-20 and 29-30 in the Response to Restriction Requirement dated Jan. 28, 2008. An Office action was mailed on March 7, 2008 answering the traversal and providing an Office action of elected claims 17-20 and 29-30. Applicant then amended the application on June 9, 2008 which resulted in another non-final rejection mailed August 13, 2008.

Applicant's next response filed on Feb. 13, 2009 included the addition of new claims 37-43. These claims were held by the examiner as not reading on the species elected by applicant and

were withdrawn from further consideration by the examiner as being directed to a non-elected invention in the Final Office Action mailed on April 3, 2009. Applicant requested reconsideration of this decision in an After Final amendment filed on June 2, 2009, to which the examiner responded with an Advisory Action mailed on June 15, 2009.

The main issue at hand is the proper interpretation of claim 37. Applicant has argued that the only interpretation of claim 37, specifically the last 13 words in claim 37, when read in light of the specification, has to be a specific interpretation that would read this claim on the elected embodiment shown in Figure 10 of applicant's disclosure. Applicant has argued that claim 37 and specifically the last 13 words thereof cannot be read broadly as the examiner has and provides a detailed discussion of how these last 13 words should be read on pages 4 through 7 of the petition.

The limitation including the last 13 words of claim 37 reads as follows: "sealing air from flowing in the space between the upper and lower sieves, and a portion of the frame lateral to the upper and lower sieves". In the Final Rejection and Advisory action, the examiner has maintained that claim 37 requires air to be sealed in the space between the upper and lower sieves and a portion of the frame lateral to the upper and lower sieves. In the petition applicant draws attention to two words in claim 37, specifically "lateral" and "gap". It is noted that the word "gap" does not appear in claim 37, so it appears that applicant's analysis was reading the word "gap" in place of "space", but a space does not have to be a "gap".

While points 1-4 of applicants "Discussion" have all been considered, it is point 5 that seems to be most relevant in this decision. In comparing Species IV with claim 37, applicant insists that both refer to a side seal that obstructs air from flowing into the side gaps formed between the sieves and the frame. Claim 17 which was originally elected and covers the embodiment of Figure 10, makes it clear which parts of the device form the "gap" and that a seal member obstructs a substantial portion of the airflow from flowing longitudinally through the gap. Claim 37 on the other hand leaves it open to interpretation what the claim covers. After reviewing the application and the arguments, the examiner's interpretation of claim 37 is reasonable and the examiner's withdrawal of claims 37-43 as not reading on the elected species is deemed to be proper.

Any question concerning this decision should be referred to Thomas B. Will, Supervisory Patent Examiner, at (571) 272-6998.

Frederick Schmidt
Director, Technology Center 3600
(571) 272-5150

tbw

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22 AUG 2006

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

In re Application of	:	
ANDREUSSI et al.	:	DECISION ON
Application No.: 10/568,919	:	
PCT No.: PCT/IB2004/001414	:	PAPERS
Int. Filing Date: 06 May 2004	:	
Priority Date: 20 August 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 200130015USWO	:	
For: METHOD TO PRODUCE AN ELEMENT	:	
SUBJECT TO WEAR, AND ELEMENT SUBJECT	:	
TO WEAR THUS OBTAINED	:	

This is a decision on the submission filed by applicants on 17 February 2006, which was accompanied by, *inter alia*, a declaration of the inventors and a "COMMUNICATION UNDER 37 CFR 1.42".

BACKGROUND

On 06 May 2004, applicants filed international application IB2004/001414which claimed a priority date of 20 August 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 March 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 20 February 2006.

On 17 February 2006, applicants filed, *inter alia*, a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee, a declaration of inventors, and the instant "COMMUNICATION UNDER 37 CFR 1.42".

DISCUSSION

The declaration filed 17 February 2006 fails to comply with 37 CFR 1.497(a)-(b).
-First, 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)).
-Second, under 37 CFR 1.42, the declaration must include the signature of the legal representative or the signature of all of the heirs (or if there is only one heir, the sole heir). The declaration filed 17 February 2006 does not indicate that the persons signing are all the heirs.

When the declaration is signed by a legal representative, the declaration should state that this person is the legal representative. Alternatively, applicants' attorney may file a statement certifying that the person signing is the legal representative. When the declaration is not signed by a legal representative and does not indicate that the persons signing are all of the heirs (or the sole heir), then it must be accompanied by a statement by either those signing or by the attorney which sets forth (1) that they are in fact all the heirs of the deceased and (2) that no legal representative of the deceased's estate has been appointed or is required by the applicable law to be appointed.

CONCLUSION

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

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

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

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

12 FEB 2007

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

In re Application of	:	
ANDREUSSI et al.	:	DECISION ON
Application No.: 10/568,919	:	
PCT No.: PCT/IB2004/001414	:	PAPERS
Int. Filing Date: 06 May 2004	:	
Priority Date: 20 August 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 200130015USWO	:	
For: METHOD TO PRODUCE AN ELEMENT	:	
SUBJECT TO WEAR, AND ELEMENT SUBJECT	:	
TO WEAR THUS OBTAINED	:	

This is a decision on applicants' renewed submission under 37 CFR 1.42 filed 18 October 2006.

BACKGROUND

On 06 May 2004, applicants filed international application IB2004/001414which claimed a priority date of 20 August 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 March 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 20 February 2006.

On 17 February 2006, applicants filed, *inter alia*, a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee, a declaration of inventors, and a "COMMUNICATION UNDER 37 CFR 1.42".

On 22 August 2006, a decision was mailed refusing applicants' request for status under 37 CFR 1.42.

On 18 October 2006, applicants filed the instant renewed submission under 37 CFR 1.42 which was accompanied by a declaration of inventors.

DISCUSSION

The submission filed 18 October 2006 has been reviewed and has been found in compliance with 37 CFR 1.42. The declaration filed 18 October 2006 taken together with the declaration filed 17 February 2006 are in compliance with 37 CFR 1.497(a)-(b).

The submission of the declaration executed by all the heirs is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed and thus all the heirs are signing as the legal representative of the estate. If this interpretation is incorrect application is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

CONCLUSION

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

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

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

1 0 APR 2007

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Gregory L. Ozga
Warn, Hoffmann, Miller & Ozga, P.C.
P.O. Box 70098
Rochester Hills, MI 48307

In re Application of	:	
STEEN, et al.	:	
PCT No.: PCT/US04/28847	:	DECISION ON PETITION
Application No.: 10/568,927	:	
Int. Filing Date: 07 September 2004	:	UNDER 37 CFR 1.47(a)
Priority Date: 08 September 2003	:	
Atty. Docket No.: SCH-00072-US2	:	
For: LED LIGHT SOURCE	:	

This decision is in response to applicant's petition under 37 CFR § 1.47 filed 20 March 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 07 September 2004, applicant filed international application PCT/US04/28847 which claimed priority to an earlier application filed 08 September 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 08 March 2006.

On 21 February 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 application data sheet and a preliminary amendment.

On 19 January 2007, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an 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 20 March 2007, applicant filed the present petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of co-inventor Ronald Steen.

DISCUSSION

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

As to item (1), applicant has supplied a petition fee payment of $130.00. The correct petition fee under 37 CFR 1.17(g) is $200.00. As authorized, the $70.00 difference will be charged to deposit account number 50-1612.

Regarding item (2), applicant has provided a first-hand statement that Mr. Steen was mailed a compete set of application papers on two occasions. In addition, counsel has stated that after the second mailing, counsel attempted to locate a more current address. Applicant has included copies of these internet searches.

Similarly, applicant has stated the last known address of Mr. Steen and provided a declaration executed by co-inventor, Kyle P. Lucas on his own behalf and on behalf of Mr. Steen. As such, it is proper to grant applicant's petition at this time.

CONCLUSION

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

The application has an international filing date of 07 September 2004 under 35 U.S.C. 363, and will be given a date of **20 March 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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

1 0 APR 2007

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Mr. Ronald L. Steen
596 Oxford Lane
Lindenhurst, IL 60046

In re Application of :
STEEN, et al. :
PCT No.: PCT/US04/28847 :
Application No.: 10/568,927 :
Int. Filing Date: 07 September 2004 :
Priority Date: 08 September 2003 :
Atty. Docket No.: SCH-00072-US2 :
For: LED LIGHT SOURCE :

Dear Mr. Steen:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, the law firm of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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

Gregory L. Ozga
Warn, Hoffmann, Miller & Ozga, P.C.
P.O. Box 70098
Rochester Hills, MI 48307

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

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of	:	
MUTO, et al.	:	
Application No. 10/568,947	:	DECISION GRANTING PETITION
Filed: February 22 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **127102**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 28, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 7, 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 Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3747 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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

Mail Date: 07/14/2010

Applicant	: Morio Matsumoto	: DECISION ON REQUEST FOR
Patent Number	: 7637619	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/568,948	: OF WYETH
Filed	: 02/22/2006	:
		:

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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Syngenta Crop Protection, Inc.,
Patent and Trademark Department
410 Swing Road
Greensboro, NC 27409

Mail Date: 04/21/2010

Applicant	: Werner Zambach	: DECISION ON REQUEST FOR
Patent Number	: 7638514	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/568,993	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **669** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Syngenta Crop Protection, Inc.,
Patent and Trademark Department
410 Swing Road
Greensboro, NC 27409

Mail Date: 05/18/2010

Applicant : Werner Zambach
Patent Number : 7638514
Issue Date : 12/29/2009
Application No : 10/568,993
Filed : 11/13/2006

: 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 **708** 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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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 05/04/2010

Applicant	: Gerald Eckl	: DECISION ON REQUEST FOR
Patent Number	: 7613015	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/569,010	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **652** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

Mail Date: 04/21/2010

Applicant	: Javier Dotor De Las Herrerias	: DECISION ON REQUEST FOR
Patent Number	: 7666841	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/569,012	: 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 **121** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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ARENT FOX PLLC
1050 Connecticut Avenue, NW
Suite 400
Washington, DC 20036-5339

In re Application of	:	DECISION ON
CAMPBELL et al	:	
PCT No.: PCT/US2004/026981	:	
Application No: 10/569,021	:	
Int. Filing Date: 19 August 2004	:	PETITION UNDER
Priority Date: 20 August 2003	:	
Attorney's Docket No.: 2G02.1-082 1	:	
For: BLOOD SAMPLING DEVICE	:	37 CFR 1.47(a)

This is in response to the "PETITION TO ACCEPT ... OR CANNOT BE REACHED (37 CFR 1.47(a))" filed on 08 December 2006. The petition fee is now $200.00 for a petition under 37 CFR 1.47(a) so $70 has been charged to petitioner's deposit account 50-1513 as stipulated in the petition letter filed on 08 December 2006.

BACKGROUND

On 19 August 2004, petitioner filed international application PCT/US2004/026981, which claimed priority to an earlier application filed 20 August 2003. The thirty-month (30) time period for paying the basic national fee in the United States of America expired at midnight on 20 February 2006.

On 17 February 2006, petitioner filed in the United States Patent & Trademark Office a transmittal letter for entry into the national stage in the U.S. under 35 U.SC. 371, which was accompanied by, inter alia, the U.S. basic national fee, and an executed declaration but without the signature of one of the joint inventors, Mitchell A. Solis, accompanied the above papers.

On 07 September 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by the International application number and international filing date" and to avoid abandonment. The notice indicated that the items must be submitted within two months from date of mailing or by 32 months from the priority date of the application, in order to avoid abandonment of the national stage application.

On 08 December 2006, petitioner filed the present petition, a declaration in support of filing on behalf of omitted inventor Mitchell A. Solis.

DISCUSSION

PETITION UNDER 37 CFR 1.47(a):

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

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

> **REFUSAL TO JOIN:**
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

> When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied requirements (1) and (3) - (4) of 37 CFR 1.47(a) but not requirement (2).

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

Regarding requirement (2), in this case, it has been sufficiently demonstrated that a copy of the application papers were mailed to the non-signing inventor, Mitchell A. Solis but it is not clear if he received the papers. Although the FedEx Track states that it was delivered, it was left at the front door. Consequently, it is unclear if Mr. Solis received the papers because there is no signature of receipt by someone at the residence and petition also alleges not he could not be reached after diligent effort via phone calls.

Moreover, from the declaration, it appears that no further attempts were made to delivery the application papers so as to show that Mr. Solis actually received the delivery of the papers. Where the Office is being asked to accept the silence of the nonsigning inventor's as evidence of a refusal to sign, petitioner must provide some evidence that the application materials have been received by the nonsigning applicant. Absent further firsthand evidence that the application and request for signature were received by the nonsigning inventor, item (2) cannot be considered satisfied.

In addition, it is unclear if Mr. Solis still resides in that address. If not, then petitioner is under an obligation to try to find or reach Mr. Solis. Where there is an inability to find or reach a joint inventor "after diligent effort, " petitioner may file a statement of facts that fully describes the exact facts which are relied on to establish that a diligent effort was made under **37 CFR 1.47**.

Regarding requirement 3, petitioner has provided a statement of the last known address of the missing inventor.

Regarding requirement 4, petitioner has provided an executed declaration signed by LeVAUGHN, KENNEDY, RUF, ROBBINS, HEATH, FLYNN, CAMPBELL, GRIFFIN, IRWIN, and PYNES on their behalf and on the behalf of the nonsigning joint inventor Mitchell A. SOLIS.

Consequently, the current record does not sufficiently establish Mr. Solis' refusal to join in the application because no evidentiary documents have been submitted in English to show that a *bona fide* attempt was made to deliver the complete application to him and that he received and signed for the papers.

CONCLUSION

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

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

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

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

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ARENT FOX PLLC
1050 Connecticut Avenue, NW
Suite 400
Washington, DC 20036-5339

In re Application of	:	DECISION ON RENEWED
CAMPBELL et al	:	
PCT No.: PCT/US2004/026981	:	
Application No: 10/569,021	:	
Int. Filing Date: 19 August 2004	:	PETITION UNDER
Priority Date: 20 August 2003	:	
Attorney's Docket No.: 2G02.1-082 1	:	
For: BLOOD SAMPLING DEVICE	:	37 CFR 1.47(a) and 137(b)

This is in response to the "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b) and PETITION TO ACCEPT SIGNATURE BY CO-INVENTOR ON BEHALF OF INVENTOR WHO REFUSES TO JOIN IN APPLICATION OR CANNOT BE REACHED (37 CFR 1.47(a))" filed on 28 January 2008.

BACKGROUND

In a decision from Office on 27 February 2007, the petition filed on 08 December 2006 was dismissed. The decision stated that applicants had not met item (2) under 37 CFR 1.47(a).

On 09 January 2008, the USPTO mailed applicant Notification of Abandonment (Form PCT/DO/EO/909) indicating that applicant has failed to respond to the notification of MISSING REQUIREMENT (Form PCT/DO/EO/905), mailed 09/07/2006 within the time period set therein.

On 28 January 2008, instant petition under 37 CFR 1.137(b) and 1.47(a), accompanied by, *inter alia*,, by copies of the 1.47(a) petition filed on 08 December 2006 and the petition fee for revival of an unintentionally abandoned application

DISCUSSION

PETITION UNDER 37 CFR 1.137(b):

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. 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.

Applicants have satisfied requirements (2), (3), and (4) under 37 CFR 1.137(b) but not requirement (1).

Applicants have not provided: (1) the proper reply because applicants have not addressed the issues raised by the dismissal decision on 27 February 2007 with respect to item (2). Applicants have basically re-submitted the petition originally filed on 08 December 2006.

Applicants have provided: (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 not 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 **DISMISSED** without prejudice.

PETITION UNDER 37 CFR 1.47(a):

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

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

REFUSAL TO JOIN:

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

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.
>
> Applicants have still not satisfied requirement (2).

As stated in the previous decision, regarding requirement (2), in this case, it has been sufficiently demonstrated that a copy of the application papers were mailed to the non-signing inventor, Mitchell A. Solis but it is not clear if he received the papers. Although the FedEx Track states that it was delivered, it was left at the front door. Consequently, it is unclear if Mr. Solis received the papers because there is no signature of receipt by someone at the residence and petition also alleges not he could not be reached after diligent effort via phone calls.

Moreover, from the declaration, it appears that no further attempts were made to delivery the application papers so as to show that Mr. Solis actually received the delivery of the papers. Where the Office is being asked to accept the silence of the nonsigning inventor's as evidence of a refusal to sign, petitioner must provide some evidence that the application materials have been received by the nonsigning applicant. Absent further firsthand evidence that the application and request for signature were received by the nonsigning inventor, item (2) cannot be considered satisfied.

In addition, it is unclear if Mr. Solis still resides in that address. If not, then petitioner is under an obligation to try to find or reach Mr. Solis. Where there is an inability to find or reach a

joint inventor "after diligent effort, " petitioner may file a statement of facts that fully describes the exact facts which are relied on to establish that a diligent effort was made under **37 CFR 1.47**.

Consequently, the current record does not sufficiently establish Mr. Solis' refusal to join in the application because no evidentiary documents have been submitted in English to show that a *bona fide* attempt was made to deliver the complete application to him and that he received and signed for the papers.

CONCLUSION

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

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

The application remains abandoned.

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) and 137(b)."

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

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GARDNER GROFF GREENWALD
& VILLANUEVA, PC
2018 Powers Ferry Rd, Ste 800
Atlanta, Georgia 30339

In re Application of	:	DECISION ON RENEWED
CAMPBELL et al	:	
PCT No.: PCT/US2004/026981	:	
Application No: 10/569,021	:	
Int. Filing Date: 19 August 2004	:	PETITION UNDER
Priority Date: 20 August 2003	:	
Attorney's Docket No.: 2G02.1-082 1	:	
For: BLOOD SAMPLING DEVICE	:	37 CFR 1.47(a) and 137(b)

This a copy of the 27 February 2008 decision that was erroneously mailed to the wrong address. The mailing of this copy to the correct address resets the period to respond.

This is in response to the "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b) and PETITION TO ACCEPT SIGNATURE BY CO-INVENTOR ON BEHALF OF INVENTOR WHO REFUSES TO JOIN IN APPLICATION OR CANNOT BE REACHED (37 CFR 1.47(a))" filed on 28 January 2008.

BACKGROUND

In a decision from Office on 27 February 2007, the petition filed on 08 December 2006 was dismissed. The decision stated that applicants had not met item (2) under 37 CFR 1.47(a).

On 09 January 2008, the USPTO mailed applicant Notification of Abandonment (Form PCT/DO/EO/909) indicating that applicant has failed to respond to the notification of MISSING REQUIREMENT (Form PCT/DO/EO/905), mailed 09/07/2006 within the time period set therein.

On 28 January 2008, instant petition under 37 CFR 1.137(b) and 1.47(a), accompanied by, *inter alia*,, by copies of the 1.47(a) petition filed on 08 December 2006 and the petition fee for revival of an unintentionally abandoned application

DISCUSSION

PETITION UNDER 37 CFR 1.137(b):

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. 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.

Applicants have satisfied requirements (2), (3), and (4) under 37 CFR 1.137(b) but not requirement (1).

Applicants have not provided: (1) the proper reply because applicants have not addressed the issues raised by the dismissal decision on 27 February 2007 with respect to item (2). Applicants have basically re-submitted the petition originally filed on 08 December 2006.

Applicants have provided: (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 not 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 **DISMISSED** without prejudice.

PETITION UNDER 37 CFR 1.47(a):

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

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

REFUSAL TO JOIN:

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

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

Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Applicants have still not satisfied requirement (2).

As stated in the previous decision, regarding requirement (2), in this case, it has been sufficiently demonstrated that a copy of the application papers were mailed to the non-signing inventor, Mitchell A. Solis but it is not clear if he received the papers. Although the FedEx Track states that it was delivered, it was left at the front door. Consequently, it is unclear if Mr. Solis received the papers because there is no signature of receipt by someone at the residence and petition also alleges not he could not be reached after diligent effort via phone calls.

Moreover, from the declaration, it appears that no further attempts were made to delivery the application papers so as to show that Mr. Solis actually received the delivery of the papers. Where the Office is being asked to accept the silence of the nonsigning inventor's as evidence of a refusal to sign, petitioner must provide some evidence that the application materials have been received by the nonsigning applicant. Absent further firsthand evidence that the application and request for signature were received by the nonsigning inventor, item (2) cannot be considered satisfied.

In addition, it is unclear if Mr. Solis still resides in that address. If not, then petitioner is under an obligation to try to find or reach Mr. Solis. Where there is an inability to find or reach a joint inventor "after diligent effort, " petitioner may file a statement of facts that fully describes the exact facts which are relied on to establish that a diligent effort was made under **37 CFR 1.47**.

Consequently, the current record does not sufficiently establish Mr. Solis' refusal to join in the application because no evidentiary documents have been submitted in English to show that a *bona fide* attempt was made to deliver the complete application to him and that he received and signed for the papers.

CONCLUSION

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

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

The application remains abandoned.

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) and 137(b)."

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

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GARDNER GROFF GREENWALD
& VILLANUEVA, PC
2018 Powers Ferry Rd, Ste 800
Atlanta, Georgia 30339

In re Application of	:	DECISION ON RENEWED
CAMPBELL et al	:	
PCT No.: PCT/US2004/026981	:	
Application No: 10/569,021	:	
Int. Filing Date: 19 August 2004	:	PETITION UNDER
Priority Date: 20 August 2003	:	
Attorney's Docket No.: 2G02.1-082 1	:	
For: BLOOD SAMPLING DEVICE	:	37 CFR 1.47(a) and 1.137(b)

This decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR 1.47(a) and 1.137(b)" submitted on 20 November 2008.

BACKGROUND

The decision by this Office dated 27 October 2008 indicated that requirement (2) under 37 CFR 1.47(a) and requirement (1) under 37 CFR 1.137(b) had not been satisfied..

On 20 November 2008, petitioner filed this renewed petition accompanied, inter alia, an executed declaration by co-inventor Mitchell Solis.

DISCUSSION

37 CFR 1.47(a)

The renewed petition has included an executed declaration signed by co-inventor Mitchell Solis. Petitioner states that during the intervening time petitioner was able to locate the previously non-signing inventor, Mr. Solis, and he has now executed the declaration. The declaration is now signed by all the inventors.

Accordingly, the declaration submitted on 20 November 2008 complies with 37 CFR 1.497(a) and (b).

CONCLUSION

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

37 CFR 1.137(b):

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. 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 now satisfied item (1) under 37 CFR 1.137(b).

Applicants have provided: (1) the proper reply that is a properly executed declaration.

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

DECISION

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

CONCLUSION

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

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 consistent with this decision. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **20 November 2008.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

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

Malloy & Malloy
2800 S.W. Third Avenue
Historic Coral Way
Miami, FL 33129

COPY MAILED
OCT 01 2008

In re Application of	:	
Debra Fogel Harris	:	
Application No. 10/569,033	:	DECISION ON PETITION
Filed: February 17, 2006	:	TO WITHDRAW
Attorney Docket No. HARRISPCTUS	:	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 September 11, 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 Benjamin M. Hanrahan, on behalf of all attorneys/agents associated with customer number 04219. All attorneys/agents associated with customer number 04219 have been withdrawn.

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

The correspondence address has been changed. The address changed 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: Debra Fogel Harris
9858 Client Moore Road
C111-248
Boca Raton, FL 33496

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/569,033	02/17/2006	Debra Fogel Harris	HARRISPCTUS

CONFIRMATION NO. 9210

POWER OF ATTORNEY NOTICE

4219
MALLOY & MALLOY
2800 S.W. THIRD AVENUE
HISTORIC CORAL WAY
MIAMI, FL 33129

OC000000032358615

Date Mailed: 09/30/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/11/2008.

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

/kainabinet/

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

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19 DEC 2006

McDonnell Boehnen Hulbert & Berghoff, LLP
300 South Wacker Drive
32nd Floor
Chicago, IL 60606

In re Application of :
LEE, Jung Han :
Application No.: 10/569,041 :
PCT No.: PCT/KR04/02471 : DECISION ON PETITION
Int. Filing Date: 24 September 2004 :
Priority Date: 30 September 2003 :
Attorney Docket No.: 054-98-C :
For: METHOD OF CONTROLLING DATA RATE FOR A FORWARD DATA SERVICE IN A CDMA 2000-1X SYSTEM

This decision is issued in response to applicant's "Petition under 37 CFR 1.47(b) By Person Having Proprietary Interest to File Application on Behalf of Inventor Who Refuses to Sign" filed 13 November 2006. The petition fee has been submitted.

BACKGROUND

On 24 September 2004, applicant filed international application PCT/KR04/02471 which claimed a priority date of 30 September 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 April 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 30 March 2006.

On 22 February 2006, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and an application data sheet.

On 07 September 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 13 November 2006, applicant filed the present petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the

application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Items (1), (3), (4) and (6) under 37 CFR 1.47(b) have been satisfied.

Regarding item (2) above, petitioner states that Jung Han Lee has refused to execute the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

A review of the present petition reveals that applicant has not satisfied item (2) above, in that the applicant has not shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Jung Han Lee. Petitioner has provided a copy of the postal letter, electronic mail, and a delivery certificate sent to Jung Han Lee. However, petitioner fails to provide evidence that a complete copy of the application was mailed to the nonsigning inventor The mailing of a Declaration/Power of Attorney and Assignment are not considered a complete copy of the application papers. As stated above, in order to meet the requirements of 37 CFR 1.47(a) and Section 409.03(d) of the MPEP, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers were sent to Jung Han Lee and that Jung Han Lee has subsequently refused to execute the application.

Concerning Item (5), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. MPEP 409.03(f).

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

The present petition states that the inventor Jung Han Lee assigned the invention to Hyundai Syscomm, Inc. ("Hyundai") and that Hyundai subsequently assigned the invention to UTStarcomm Korea Limited ("UTStarcomm"). Petitioner has adequately demonstrated a transfer of title from Hyundai to UTStarcomm, however, additional evidence concerning the purported assignment from Jung Han Lee to Hyundai is required. Specifically, the "Employee's Declaration of Invention" does not list the U.S. application number, the PCT application number, or the priority application number. Although the document lists Hyundai reference number and the title of invention, this information by itself does not adequately demonstrate that the present invention was subject of the assignment.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Jung Han Lee under 37 CFR 1.47(b) at this time.

CONCLUSION

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

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

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

Anthony Smith

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

1 3 MAR 2007

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McDonnell Boehnen Hulbert & Berghoff, LLP
300 South Wacker Drive
32nd Floor
Chicago, IL 60606

In re Application of :
LEE, Jung Han :
Application No.: 10/569,041 :
PCT No.: PCT/KR04/02471 : DECISION ON PETITION
Int. Filing Date: 24 September 2004 :
Priority Date: 30 September 2003 :
Attorney Docket No.: 054-98-C :
For: METHOD OF CONTROLLING DATA RATE FOR A FORWARD DATA SERVICE IN A CDMA 2000-1X SYSTEM

This decision is in response to applicant's "Renewed Petition under 37 CFR 1.47(b)" filed 14 February 2007. In a decision dated 19 December 2006, applicant's petition under 37 CFR 1.47(b) to accept the application without the signature of joint inventor, Jung Han Lee, was dismissed without prejudice.

The petition for status under 37 CFR 1.47(b) is moot since the declaration filed 14 February 2007 with the present renewed petition was executed by the named inventor, the previous non-signing inventor, Jung Han Lee. The declaration filed 14 February 2007 is acceptable under 37 CFR 1.497.

For the reasons above, the renewed petition under 37 CFR 1.47(b) is **DISMISSED** as MOOT.

The application has an international filing date of 24 September 2004 under 35 U.S.C. 363 and a date of **14 February 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

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

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Robert J. Irvine, III
McDonnell Boehnen Hulbert & Berghoff, LLP
300 S. Wacker Drive
32nd Floor
Chicago, IL 60606

In re Application of	:	
KIM	:	DECISION ON PETITION
Application No.: 10/569,046	:	
PCT No.: PCT/KR04/02470	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 24 September 2004	:	
Priority Date: 30 September 2003	:	
Atty Docket No.: 05-497-C	:	
For: METHOD OF CONTROLLING POWER IN A W-CDMA MOBILE COMMUNICATION SYSTEM	:	

This decision is in response to the "Petition Under 37 CFR § 1.47(b)" filed 23 April 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 24 September 2004, applicant filed international application PCT/KR04/02470, which claimed a priority date of 30 September 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 April 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 March 2006.

On 22 February 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 Application Data Sheet.

On 12 October 2006, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 23 April 2007, applicant responded with the present petition accompanied by a petition for a five-month extension of time. With the filing of the petition for five-month extension of time and payment of the appropriate extension of time fee applicant's present filing

is considered timely filed.

DISCUSSION

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

Regarding item (2), according to the enclosed declaration of Jiwon Lim, he attempted to mail a complete set of the application papers to the inventor. These papers were returned as they were mailed to an incorrect address. It assumed that since Mr. Lim then attempted to find a current address that the address originally mailed to was incorrect because the inventor no longer lived there. As such, applicant is required to show that a diligent effort was made to locate the missing inventor. As stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts." The statement of facts from Mr. Lim does not satisfy this item. Mr. Lim states that "All efforts to obtain his current address, phone number, or email address by using KOIS have failed to provide new information concerning the whereabouts of Mr. KIM." In addition, Mr. Lim states that he was unable to find an email address for Mr. Kim using a well-known Korean web mail service using his residence identification information. However, Mr. Lim does not detail these efforts nor include copies of his search results. Mr. Lim does not provide an explanation of what the Korea Info Service Corporation is or how using old residence information would enable him to presently locate the inventor. A renewed petition under 37 CFR 1.47(b) should include the results of any internet or telephone directory searches which were performed in an effort to locate the non-signing inventor, as well as, an explanation of the searches by the party attempting to locate Mr. Lee.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

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

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a

cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

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23 OCT 2007

Robert J. Irvine, III
McDonnell Boehnen Hulbert & Berghoff, LLP
300 S. Wacker Drive
32nd Floor
Chicago, IL 60606

In re Application of	:	
KIM	:	DECISION ON RENEWED
Application No.: 10/569,046	:	
PCT No.: PCT/KR04/02470	:	PETITION UNDER
Int. Filing Date: 24 September 2004	:	
Priority Date: 30 September 2003	:	37 CFR 1.47(b)
Atty Docket No.: 05-497-C	:	
For: METHOD OF CONTROLLING POWER IN A W-CDMA MOBILE COMMUNICATION SYSTEM	:	

This decision is in response to the renewed petition under 37 CFR § 1.47(b) filed 10 October 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 20 September 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(b) to proceed without the signature of inventor Dong Keun Kim. Applicant was afforded two months to file any request for reconsideration.

On 10 October 2007, applicant responded with the present renewed petition.

DISCUSSION

As detailed in the decision mailed 20 September 2007, a petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(g); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Applicant previously satisfied items (1) and (3)-(6).

With the filing of the present renewed petition and supporting documentation, applicant has satisfied the remaining item. Specifically, applicant has provided an additional declaration from Mr. Jiwon Lim detailing his efforts in attempting to locate a current address for Mr. Kim.

In addition, copies of the internet and directory search results have been included. As such, it is proper to grant applicant's renewed petition at this time.

CONCLUSION

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

The application has an international filing date of 24 September 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).

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

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

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

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WENDEROTH, LIND & PONACK L.L.P.
2033 K. STREET, NW
SUITE 800
WASHINGTON, DC 20006

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DEC 15 2008

In re Application of	:	
Sugita et al.	:	
Application No. 10/569,100	:	ON PETITION
Filed: February 22, 2006	:	
Attorney Docket No. 20060210A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 25, 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 pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 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 a Request for Continued Examination (RCE) under 37 CFR 1.114 and fee of $810, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 2829 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

22 JUN 2006

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IVOR R ELRIFI, ESQ.
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

In re Application of	:	
BLANCO-PILLADO et al.	:	
Application No.: 10/569,109	:	COMMUNICATION
PCT No.: PCT/US2004/025607	:	
Int. Filing Date: 03 September 2004	:	
Priority Date: 12 September 2003	:	
Attorney Docket No.: 34251-503 NATL	:	
For: SUBSTITUTED 2-CARBONYLAMINO-6-	:	
PIPERIDIDNAMINOPYRIDINES AND SUBSTITUTED	:	
1-CARBONYLAMINO-3-PIPERIDINAMINO-	:	
BENZENES AS 5-HT1F AGONISTS	:	

This application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 03 September 2004, applicant filed international application PCT/US2004/025607, which designated the U.S. and claimed a priority date of 12 September 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 April 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 13 March 2006 (12 March 2006 being a Sunday).

On 21 February 2006, application papers requesting national stage entry in the United States for PCT/US2004/025607 were submitted by a representative for the applicant from Eli Lilly and Company. These papers were accompanied by the requisite basic national fee and were assigned U.S. application number 10/569,109. These papers also included a combined declaration and power of attorney appointing representatives from Eli Lilly and Company, Patent Division.

On 13 March 2006, application papers requesting national stage entry in the United States for PCT/US2004/025607 were submitted by a representative for the applicant from the law firm of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. These papers were accompanied by the requisite basic national fee and were temporarily assigned U.S. application number 10/571,643.

DISCUSSION

The submission of two different sets of application papers to enter the national stage in the United States was improper. In view of the combined declaration and power of attorney submitted in application number 10/569,109 on 21 February 2006, applicants have selected application number 10/569,109 for national stage processing under 35 U.S.C. 371. The application papers filed 13 March 2006 have been placed in the 10/569,109 application file. Accordingly, application number 10/571,643 has been reassigned.

CONCLUSION

Application number 10/569,109 will continue to be processed under 35 U.S.C. 371.

Applicants should use application number 10/569,109 in all future communications with the USPTO in regards to the U.S. national stage application based on international application PCT/US2004/025607.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 3 2008

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No 10/569109 patent no7291632

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

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 1625 **Art Unit**

0 9 NOV 2006
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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

In re Application of:	:	
CANNIZZARO, Christopher	:	DECISION ON REQUEST UNDER
U.S. Application No.: 10/569,114	:	37 CFR 1.497(d)
PCT No.: PCT/CH2004/000506	:	
International Filing Date: 13 August 2004	:	
Priority Date: 22 August 2003	:	
Attorney's Docket No.: 0015-060089	:	
For: DEVICE FOR AUTOMATED	:	
BIOREACTOR SAMPLING	:	

This decision is issued in response to the "Petition To Correct Inventorship In A Nonprovisional Patent Application Under 37 CFR 1.48(a)" filed 25 September 2006, treated herein under 37 CFR 1.497(d).[1] Deposit Account No. 23-0650 will be charged the required $130 processing fee.

BACKGROUND

On 13 August 2004, applicants filed international application PCT/CH2004/000506. The application claimed a priority date of 22 August 2003, and it designated the United States. On 03 March 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., 22 February 2006. The published international application identified a corporate applicant for all states other than the U.S., and a single applicant/inventor for the U.S., Christopher CANNIZZARO.

On 22 February 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.

On 25 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration acceptable under 37 CFR 1.497 was required.

On 25 September 2006, applicants filed a response to the Notification Of Missing Requirements. The response included a declaration by two persons (Christopher Cannizzarro

[1] 37 CFR 1.48(a) does not apply to national stage applications, such as the present case, which have not yet complied with the requirements of 35 U.S.C. 371(c); the applicable regulation is 37 CFR 1.497(d).

and Urs VON STOCKAR) and the petition considered herein under 37 CFR 1.497(d). The petition seeks to add Urs VON STOCKER to the present application as an additional inventor.

DISCUSSION

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

Applicant here has submitted the required statement from the added inventor, Urs VON STOCKAR. Item (1) is therefore satisfied.

The petition authorized a charge to Deposit Account No. 23-0650 for required fees. Pursuant to this authorization, applicant will be charged the required $130 processing fee. Item (2) is therefore satisfied.

Regarding item three, applicant has submitted a document entitled "Consent Of Assignee To Change Of Inventorship Under 37 CFR 1.48(a)(5)." This document states that: (1) the person signing the document is an authorized representative of the assignee; and (2) the assignee consents to the addition of Urs VON STOCKAR as an inventor herein. However, pursuant to 37 CFR 1.497(d)(3), the consent of the assignee must be submitted in compliance with 37 CFR 3.73(b) (see MPEP δ 201.03(II)(D)). Here, the statement executed by the assignee does not comply with the requirements of 37 CFR 3.37(b)(1). Specifically, the assignee does expressly state that "the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation" or that "documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number)." Because the assignee has not properly established ownership pursuant to 37 CFR 3.73(b), the statement of consent submitted here cannot, on the present record, be accepted in satisfaction of this requirement. Item (3) is therefore not satisfied.

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

CONCLUSION

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

Christopher CANNIZZARO remains the sole inventor of record herein. Accordingly, the declaration filed 25 September 2006, which identifies Christopher CANNIZZARO and Urs VON STACKAR as inventors, is defective for failure to properly identify the inventors of record.

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

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

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

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

This Petition includes: (i) an Inventorship Statement under 37 C.F.R. § 1.48(a)(2) stating that the inventorship error occurred without any deceptive intention on the part of the omitted inventor; (ii) a Declaration and Power of Attorney by the joint inventors, Christopher Cannizzaro and Urs Von Stockar, as required by 37 C.F.R. § 1.63; (iii) the processing fee of $130.00, as set forth in 37 C.F.R. § 1.17(h); (iv) an Assignment by Christopher Cannizzaro and Urs Von Stockar; (v) an Assignment Recordation Form Cover Sheet; (vi) a check for $40.00 to cover the cost of recordation of the Assignment; and (vii) an Assent of Assignee to Correction and/or Addition of Inventor, pursuant to 37 C.F.R. § 1.48(a)(5).

Any additional fees, which may be required, may be charged to Deposit Account No. 23-0650. Please refund any overpayment to Deposit Account No. 23-0650. One (1) original and two (2) copies of this Petition are enclosed.

The Commissioner for Patents is respectfully requested to correct the inventorship of this application by naming Urs Von Stockar as the part inventorship entity of this patent application. The residence of the additional inventor is as follows:

Urs Von Stockar
Chemin de Crêt-de-Plan 39
1095 Lutry
Switzerland

Any questions concerning this submission should be directed to the Applicants' undersigned attorney at the address and telephone number below.

Respectfully submitted,

THE WEBB LAW FIRM

By _____

William H. Logsdon
Registration No. 22,132
Attorney for Applicants
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
Telephone: (412) 471-8815
Facsimile: (412) 471-4094
E-mail: webblaw@webblaw.com

11/09/2006 SRASHEIR 00000001 230650 10569114
Sale Ref: 00000001 DAE: 230650 10569114
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Alexandria, VA 22313-1450
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31 JAN 2007

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

In re Application of: CANNIZZARO, Christopher U.S. Application No.: 10/569,114 PCT No.: PCT/CH2004/000506 International Filing Date: 13 August 2004 Priority Date: 22 August 2003 Attorney's Docket No.: 0015-060089 For: DEVICE FOR AUTOMATED BIOREACTOR SAMPLING	DECISION ON RENEWED REQUEST UNDER 37 CFR 1.497(d)

In a decision mailed by this Office on 09 November 2006, applicants' request to correct inventorship was dismissed without prejudice for failure to satisfy all the requirements of 37 CFR 1.497(d). Specifically, applicants had not provided, in an acceptable form, the required consent of the assignee to the requested change in inventorship.

On 12 January 2007, applicants filed the renewed request under 37 CFR 1.497(d) considered herein. The submission included the consent of the assignee to the requested correct of inventorship, in the form required under 37 CFR 1.497(d)(3) and 3.73(b). Accordingly, applicants have now satisfied all the requirements to correct the inventorship herein.

Applicants' request to correct inventorship under 37 CFR 1.497(d) is **GRANTED**.

The inventorship herein is corrected to add Urs VON STOCKAR as an additional inventor of record. Based on this correction, the declaration filed 25 September 2006 is now acceptable under 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 25 September 2006.

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

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Paper No.

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

MAILED

MAY 04 2010

OFFICE OF PETITIONS

In re Patent No. 7585940	: DECISION ON REQUEST
Skerra et al.	: FOR
Issue Date: 09/08/2009	: RECONSIDERATION OF
Application No. 10/569134	: PATENT TERM ADJUSTMENT
Filed: 05/11/2006	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
029029-0110	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 1, 2009,[1] which is being treated as a request for reconsideration under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred thirty-one (531) days. As clarified below, the petition will be treated as a petition requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred twenty-nine (529) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred twenty-nine (529) days is **GRANTED to the extent indicated herein**.

The calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of February 27, 2006, not February 25, 2006. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Saturday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the commencement date is Monday, February 27, 2006. Therefore, the patent term adjustment is 529 days, not 531 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

[1] It is noted that the petition filed on September 1, 2009 is not properly signed as it does not include the typed name of the person signing. However, on January 15, 2010, a properly signed supplement to the petition was filed.

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 twenty-nine (529)** days.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,585,940 B2

DATED : **Sep. 8, 2009** **DRAFT**

INVENTOR(S) : Skerra 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 336 days.

Delete the phrase "by 336 days" and insert – by 529 days--

13 MAR 2006

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Tyco Engineered Products & Services
212 Carnegie Center, Suite 301
Princeton, New Jersey 08540

In re Application of MCCAUSLAND, Andrew John Application No.: 10/569,142 PCT No.: PCT/AU02/00974 Int. Filing Date: 20 July 2004 Priority Date: 23 July 2005 Attorney Docket No.:11001:E-US For: POPPET TYCO FLOW CONTROL VALVE	:	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 21 February 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the 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

11 SEP 2006

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

In re Application of:	:	
TIEMANN, Peter	:	DECISION REGARDING
U.S. Application No.: 10/569,144	:	SUBMISSION UNDER
PCT No.: PCT/EP2004/008052	:	37 CFR 1.43
International Filing Date: 19 July 2004	:	
Priority Date: 21 August 2003	:	
Attorney Docket No.: 2003P07495WOUS	:	
For: LABYRINTH SEAL IN A	:	
STATIONARY GAS TURBINE	:	

This decision is issued in response to applicant's submission on 21 February 2006 of a declaration executed on behalf of inventor Peter TIEMANN by "Iris Oltmanns as custodian of Peter Tiemann (comatose)," which has been treated as a submission under 37 CFR 1.43. No petition fee is required.

BACKGROUND

On 19 July 2004, applicant filed international application PCT/EP2004/008052. The application claimed a priority date of 21 August 2003, and it designated the United States. On 31 March 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., 21 February 2006.

On 21 February 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, an English translation of the international application, and a declaration executed by "Iris Oltmanns as custodian of Peter Tiemann (comatose)." The declaration is considered herein under 37 CFR 1.43.

DISCUSSION

37 CFR 1.43 states:

> In case an inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may make the necessary oath or declaration, and apply for and obtain the patent.

37 CFR 1.497(b)(2) states:

> If the person making the oath or declaration is not the inventor, the oath or declaration shall state the relationship of the person to the inventor, the facts required by §§ 1.42, 1.43 or 1.47, and, upon information and belief, the facts which the inventor would have been required to state.

Here, as noted above, applicant has provided a declaration executed by "Iris Oltmanns as custodian of Peter Tiemann (comatose)." The declaration sets forth the relationship of the signing person to the inventor ("custodian"), as required. However, pursuant to 35 U.S.C. 117 and 37 CFR 1.497, the declaration must also state the citizenship of both the custodian and the inventor. Here, the signed signature block in the declaration lists the citizenship as German, but it is not clear whether this citizenship information applies to the inventor or to the custodian.

Applicant must provide a revised declaration that clearly identifies the citizenship of both the inventor and his legal representative before the application may be accepted under 37 CFR 1.43.

It is noted that the term "custodian" is not used in 37 CFR 1.43. The submission of a declaration executed by the "custodian" of the incapacitated inventor is construed as an indication that the "custodian" is the legal equivalent of the inventor's "legal representative (guardian, conservator, etc.)," as set forth in 37 CFR 1.43. If this interpretation is incorrect, applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the inventor in response to this decision.

CONCLUSION

The 21 February 2006 request for status under 37 CFR 1.43 is **REJECTED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mail date this communication to submit a proper response under 37 CFR 1.43.

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

A proper response must include an oath or declaration executed on behalf of the incapacitated inventor by his "legal representative (guardian, conservator, etc.)" and containing all the information required under 35 U.S.C. 117 and 37 CFR 1.497, including, as discussed above, the citizenship of both the legal representative and the inventor.

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

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

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28 NOV 2006

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

In re Application of: TIEMANN, Peter U.S. Application No.: 10/569,144 PCT No.: PCT/EP2004/008052 International Filing Date: 19 July 2004 Priority Date: 21 August 2003 Attorney Docket No.: 2003P07495WOUS For: LABYRINTH SEAL IN A STATIONARY GAS TURBINE	DECISION REGARDING RENEWED SUBMISSION UNDER 37 CFR 1.43

This communication is issued in response to the "Response To Declaration Decision" filed on 05 October 2006. No petition fee is required.

BACKGROUND

The procedural background for this application was set forth in the decision mailed by this Office on 11 September 2006. In that decision, the declaration materials filed on 21 February 2006 under 37 CFR 1.43 were rejected without prejudice for failure to clearly indicate all required information.

On 05 October 2006, applicant filed the "Response To Declaration Decision" considered herein.

DISCUSSION

The present submission confirms that the German term "custodian" (used on the declaration) is the equivalent of "legal representative," and it states that the citizenship of the both the comatose inventor and his custodian are the same (German, as listed on the declaration). The submission therefore provides the additional information required by the previous decision. Accordingly, acceptance under 37 CFR 1.43 of the declaration filed 21 February 2006 is appropriate at this time.

CONCLUSION

Applicant's request for status under 37 CFR 1.43 with respect to incapacitated inventor Peter TIEMANN is **GRANTED**.

This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 21 February 2006.

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

24 MAR 2006

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HUSCH & EPPENBERGER, LLC
190 CARONDELET PLAZA
SUITE 600
ST. LOUIS, MO 63105-3441

In re Application of CADY	:	
U.S. Application No.: 10/569,148	:	
PCT Application No.: PCT/US03/07993	:	DECISION
Int. Filing Date: 14 March 2003	:	
Priority Date Claimed: 18 March 2002	:	
Attorney Docket No.: 57294-016-PC	:	
For: PREEMPTIVE PROPHYLAXIS OF MIGRAINE	:	

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 21 February 2006.

BACKGROUND

On 14 March 2003, applicant filed international application PCT/US03/07993, which claimed priority of an earlier United States application filed 18 March 2002. The thirty-month period for paying the basic national fee in the United States expired on 18 September 2004.

International application PCT/US03/07993 became abandoned as to the United States for failure to timely pay the basic national fee.

On 21 February 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 14 March 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 21 February 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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GERALD D. MALPASS, JR.
EXXONMOBIL UPSTREAM RESEARCH
CORP-URC-SW348
P.O. BOX 2189
HOUSTON, TX 77252-2189

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MAY 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Marguerite E. O'Neill	:	
Application No. 10/569,151	:	DECISION DISMISSING PETITION
Filed: February 21, 2006	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. 2003UR030	:	

This is a decision on the petition under 37 CFR 1.313(a), filed May 20, 2008 and supplemented on May 21, 2008, requesting withdrawal of the above-identified application from issue.

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

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on March 7, 2008, with the issue fee being due on or before June 9, 2008. The petition states that the issue fee in this case has not been paid.

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

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

The matter is being referred to Technology Center AU 3671 for appropriate processing of the RCE filed May 21, 2008, and for consideration of the concurrently filed information disclosure statement filed May 20, 2008 and May 21, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

3 0 MAR 2007

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23552
MERCHANT & GOULD PC
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of :
XU *et al* :
U.S. Application No.: 10/569,235 :
PCT No.: PCT/US2004/031124 :
Int. Filing Date: 23 September 2004 : **DECISION**
Priority Date: 17 October 2003 :
Attorney's Docket No.: 00758.1588USWO :
For: PRECLEANER ARRANGEMENT FOR :
USE IN AIR FILTRATION, . . . :

This decision is in response to the declaration filed on 04 December 2006.

BACKGROUND

On 18 September 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) & (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 04 December 2006, applicants filed a response to the Form PCT/DO/EO/905 which was accompanied by, *inter alia*, a one-month extension and fee, the surcharge fee and an executed declaration.

On 19 March 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) and filing receipt indicating completion of all 35 U.S.C. 371 requirements on 04 December 2006.

DISCUSSION

Despite the mailing of the Form PCT/DO/EO/903 on 17 March 2007, a further review of the declaration filed 04 December 2006 shows that it is not acceptable.

First, applicants submitted what appears to be a partial declaration. The last page lists only one inventor (Marty Barris) while the same inventor is recorded unexecuted on the fourth page. As such, it is clear that the complete declaration executed by the last inventor was not submitted. Applicants must submit a complete

copy of each declaration signed by the applicants.

Second, the pen and ink change of the citizenship of the first inventor, Jian Xu, from China to the United States was not initialed by the inventor. This is not acceptable. Section 605.04(a) of the MPEP states that:

> 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 noninitialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration.

For these reasons, a new declaration is required.

DECISION

The declaration submitted on 04 December 2006 is not in compliance with 37 CFR 1.497(a) and (b).

The Form PCT/DO/EO/903 and filing receipt mailed 19 March 2007 were sent in error and are hereby **VACATED**.

Applicants must provide a complete declaration in compliance with 37 CFR 1.497(a) and (b) within **ONE (1) MONTH** from the mail date of this communication, or any time remaining in the Form PCT/DO/EO/905, whichever is longer.

Failure to submit the required reply in the time allotted will result in the **ABANDONMENT** of this application.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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

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FEB 04 2010

In re Application of	:	
Brian William Dymock, et al.	:	
Application No. 10/569,287	:	DECISION GRANTING PETITION
Filed: October 6, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 010180.00050	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, February 4, 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 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 should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1624 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

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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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30 MAY 2006

Dilworth & Barrese, LLP
333 Earle Ovington Blvd.
Suite 702
Uniondale, NY 11553

In re Application of	:	
Lee	:	
Application No.: 10/569,296	:	DECISION
PCT No.: PCT/KR04/01188	:	
Int. Filing Date: 19 May 2004	:	ON
Priority Date: 20 May 2003	:	
Attorney Docket No.: 1378-4	:	PETITION
For: Portable Karaoke System	:	

The petition to revive under 37 CFR 1.137(b) filed 23 February 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 $65.00 surcharge under 37 CFR 1.492(h) is being charged to counsel's Deposit Account No. 04-1121, as authorized by the Transmittal Letter filed on 23 February 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 **23 February 2006**.

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

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APR 30 2009

OFFICE OF PETITIONS

In re Application of
Sadao Nishibori et al.
Application No. 10/569,300
Filed: February 23, 2006
Attorney Docket No.: 3601PAT

ON PETITION

This decision is in response to the petition filed April 20, 2009, to withdraw the holding of abandonment for the above-identified application under 37 CFR 1.181 or in the alternative to revive the above-identified application under 37 CFR 1.137(b).

The petition under 37 CFR 1.181 is **GRANTED**.
The petition under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

The application was held abandoned for failure to timely submit a timely response to the non-Final Office Action mailed July 22, 2008, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed February 25, 2009.

Petitioner asserts that a response was filed and, in support, has submitted, *inter alia*, a copy of the response which included a one month extension of time request and bears a certificate of mail dated November 20, 2008, pursuant to 37 CFR 1.8.

A search of the application file and the USPTO records does not reveal that the response was filed but, the evidence submitted corroborates a timely response to the non-Final Office Action.

Accordingly, the Notice of Abandonment mailed February 25, 2009 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged. The petition fee will be refunded in due course. The one month extension of time fee will be charged to deposit account no. 07-1338.

In view of the above, there is no need to treat the petition in the alternative under 37 CFR 1.137(b).

This matter will be referred to Technology Center 1791 for appropriate action on the amendment filed November 20, 2008, a copy of which was submitted with the instant petition.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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INTERVET/SCHERING-PLOUGH ANIMAL HEALTH
PATENT DEPT. K-6-1, 1990
2000 GALLOPING HILL ROAD
KENILWORTH, NJ 07033-0530

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Paul S. Cohen	:	
Application No. 10/569,311	:	
Filed: February 22, 2006	:	
Attorney Docket No. I-2003.009 US	:	

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 31, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/469,863.

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 $490 extension of time fee submitted with the petition on September 30, 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 undersigned at (571) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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04 SEP 2007

BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

In re Application of BRAUN Application No.: 10/569,313 PCT No.: PCT/EP04/09350 Int. Filing Date: 20 August 2004 Priority Date: 20 August 2003 Attorney Docket No.: 06-144 For: WOODEN MATERIAL PANEL COMPRISING A SOFT PLASTIC LAYER	DECISION ON DECLARATION

This is a decision on applicants' declaration, filed on 23 March 2007 in the United States Patent and Trademark Office (USPTO).

On 21 February 2006, at the expiration of thirty month period (20 February 2006 was a holiday), applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee along with a declaration identifying one inventor Roger Braun.

A review of the published international application PCT/EP04/09350 reveals that Roger Braun and Uwe Kottmann were identified as the joint inventors. However, a review of the International Bureau (IB) documents reveals that on 14 February 2006, the IB issued a Notification of the Recording of A Change (Form PCT/IB/306) removing Uwe Kottmann as an applicant/inventor for the United States under PCT Rule 92*bis*.1.

Since there is this indication that Uwe Kottmann was removed by the International Bureau under PCT Rule 92*bis* as a co-inventor, it is proper to accept the declaration identifying Roger Braun as a sole inventor. The declaration executed by Roger Braun as a sole inventor in the above referenced application 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.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

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Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, TX 75202

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OFFICE OF PETITIONS

In re Application of

Scott Costa
Application No. 10/569,323
Filed: February 17, 2006
Attorney Docket No. 25791.215.06

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 23, 2007.

The request is **NOT APPROVED**.

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

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

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **King & Spalding, LLP**
Todd Mattingly
1100 Louisiana Street
Suite 4000
Houston, TX 77002

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18 JUN 2008

EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

In re Application of DE RIJCKE et al	:	
U.S. Application No.: 10/569,328	:	
PCT Application No.: PCT/EP99/02557	:	COMMUNICATION
Int. Filing Date: 16 April 1999	:	
Priority Date Claimed: 23 April 1998	:	
Attorney Docket No.: 000009569	:	
For: MANUFACTURING OF SHAPED COOLANT HOSES	:	

This application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

The Transmittal Letter (Form PTO-1390) filed 18 February 2006 references international application number PCT/EP99/02557. However, the declaration and various other documents reference international application number PCT/EP04/51960.

A proper response must be filed within TWO (2) MONTHS from the mail date of this communication, clarifying the above-noted discrepancy. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). A proper response would include a petition under 37 CFR 1.182 to correct the Transmittal Letter along with the requisite $400.00 petition fee.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

2 0 AUG 2008

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5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

In re Application of DE RIJCKE et al	:	
U.S. Application No.: 10/569,328	:	
PCT Application No.: PCT/EP2004/051960	:	
Int. Filing Date: 30 August 2004	:	DECISION
Priority Date Claimed: 29 August 2003	:	
Attorney Docket No.: 000009569	:	
For: MANUFACTURING OF SHAPED	:	
COOLANT HOSES	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.182 to Correct the Transmittal Letter" filed 14 August 2008.

BACKGROUND

On 30 August 2004, applicant filed international application PCT/EP2004/051960, which claimed priority of an earlier European Patent Office application filed 29 August 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 10 March 2005. The thirty-month period for paying the basic national fee in the United States expired on 28 February 2006.

On 18 February 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 Transmittal Letter (Form PTO-1390) which referenced international application PCT/EP99/02557.

On 18 June 2008, this Office mailed a communication which identified the discrepancy between the international application number listed on the Transmittal Letter and that listed on other submitted documents.

On 14 August 2008, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

A review of the application papers filed 18 February 2006 reveals that the incorrect international application number was listed on the Transmittal Letter (Form PTO-1390). The petition states that the correct international application number should be PCT/EP2004/051960. The content of international application number PCT/EP2004/051960 is consistent with the specification, claims, abstract, title, and declaration filed with the national stage papers on 18 February 2006. Applicant's explanation for the error is accepted.

CONCLUSION

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a proper oath or declaration in compliance with 37 CFR 1.497 must be filed.[1]

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

[1] The declaration filed 18 February 2006 is an improper composite document. It is not acceptable to combine separate pages (i.e. signature pages) from different copies of a declaration into a single document for submission. In particular, the signature page executed by Antonius van Meesche appears to have been transmitted by facsimile and then added to the remaining declaration pages. Applicant must submit either: (1) a single complete declaration which is presented to and executed by all of the inventors or (2) multiple complete declarations, wherein each of the inventors is presented with and executes at least one of the multiple complete declarations.

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Syngenta Corp Protection, Inc.
410 Swing Road
Greensboro, NC 27409

Mail Date: 04/21/2010

Applicant	: Josef Ehrenfreund	: DECISION ON REQUEST FOR
Patent Number	: 7618952	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/569,343	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **659** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

06 MAR 2007

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

In re Application of
KALLMAYER et al.
Application No.: 10/569,382
PCT No.: PCT/EP04/09563
Int. Filing Date: 27 August 2004
Priority Date: 27 August 2003
Attorney Docket No.: P29170
For: CAPSULE WHOSE ENVELOPE IS SEPARATELY IMPERCEPTIBLE DURING THE TOPICAL USE THEREOF

DECISION ON PETITION UNDER 37 CFR 1.182

This decision is issued in response to applicants' "Cover Letter Regarding Change of Last Name of Twelfth Inventor" filed 29 December 2006 which is being treated as a petition to change an inventor's name under 37 CFR 1.182. The **$400** petition fee will be charged to counsel's Deposit Account No. 19-0089.

BACKGROUND

On 24 February 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; a copy of the international application; and a preliminary amendment.

On 04 October 2006, applicants filed an executed declaration.

On 01 November 2006, the United States/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the declaration was defective because the name of the twelfth inventor (Yvonne Eckhard) was different than that which originally filed with the International Bureau (Yvonne Cierpisz). The notification set a two-month time limit in which to respond

On 29 December 2006, applicant filed a response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office which states that the correct name of the twelfth inventor is Yvonne Eckhard due to marriage. These statements have been construed to be a petition under 37 CFR 1.182.

DISCUSSION

The Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order. As noted above, the $400 petition fee has been charged to counsel's Deposit Account No. 19-0089, and thus item (1) has been satisfied.

With regards to item (2), applicants have not provided a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order. Therefore, item (2) has not been satisfied, and thus the petition may not be properly granted at this time.

CONCLUSION

For the reasons above, the petition is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

A proper response must include a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order. Failure to file a proper response within the period for response as set forth above, or as extended by any petitions for extensions of time under 37 CFR 1.136(a), will result in the abandonment of the application.

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

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

03/06/2007 SBASHEIR 00000002 190089 10569382
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1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Application of
KALLMAYER et al.
Application No.: 10/569,382
PCT No.: PCT/EP04/09563
Int. Filing Date: 27 August 2004
Priority Date: 27 August 2003
Attorney Docket No.: P29170
For: CAPSULE WHOSE ENVELOPE IS SEPARATELY IMPERCEPTIBLE DURING THE TOPICAL USE THEREOF

DECISION ON PETITION UNDER 37 CFR 1.182

This decision is in response to applicants' "Renewed Petition under 37 CFR 1.182" filed 06 September 2007.

BACKGROUND

On 24 February 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 copy of the international application.

On 04 October 2006, applicants filed an executed declaration.

On 01 November 2006, the United States/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the declaration was defective because the name of the twelfth inventor (Yvonne Eckhard) was different from that which originally filed with the International Bureau (Yvonne Cierpisz). The notification set a two-month time limit in which to respond.

On 29 December 2006, applicants filed a response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office which stated that the correct name of the twelfth inventor is Yvonne Eckhard due to marriage. In a decision dated 06 March 2007, applicants' petition under 37 CFR 1.182 was dismissed without prejudice.

On 06 September 2007, applicants filed the present "Renewed Petition under 37 CFR 1.182."

DISCUSSION

Section 605.04(b) of the Manual of Patent Examining Procedure states that:

> Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 35 U.S.C. 1.182 together with an appropriate petition fee.

Applicants request to change the name of the twelfth inventor from Yvonne Cierpisz to Yvonne Eckhard. Accordingly, the present renewed submission has been treated as a petition under 37 CFR 1.182 to correct the name of the twelfth inventor. For such a petition to be grantable, MPEP § 605.04(c) states that "the petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a copy of the court order."

Here, applicants' previous submission included the authorization to charge counsel's Deposit Account the required fees, satisfying the petition fee requirement. As for the affidavit requirement, applicants have submitted a "Declaration of Yvonne Eckhard Concerning Name Change" (affidavit) regarding the name change. This affidavit states that the inventor's surname was changed, and that her name was legally changed to Yvonne Eckhard as a result of marriage.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of record for inventor Yvonne Cierpisz to Yvonne Eckhard is **GRANTED**.

A review of the application papers reveals that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage.

This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision.

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

2 9 MAR 2007

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

In re Application of SALVATI et al. Application No.: 10/569,403 PCT No.: PCT/IB04/01574 Int. Filing: 22 April 2004 Priority Date: 25 August 2003 Attorney Docket No.: 2503-1201 For: ALPHA-AMINOAMIDE DERIVATIVES USEFUL AS ANTI-INFLMMATORY AGENTS	DECISION ON PETITION under 37 CFR 1.47(a)

This is a decision on applicant's petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 18 December 2006, to accept the application without the signature of joint inventor, Orietta VENERONI. Petitioner requests a two month extension of time, which is granted.

BACKGROUND

On 23 February 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 18 August 2006, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) was required.

On 18 December 2006, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor Orietta VENERONI. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor, Orietta VENERONI alleging that Ms. VENERONI refuses to sign the application.

DISCUSSION

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

The petition included the requisite petition fee, satisfying Item (1). Item (3) is satisfied because the last known address of non-signing inventor, Orietta VENERONI, was provided. With regard to item (4), the declaration executed by the available joint inventors on their behalf and on behalf of the non-signing inventor was submitted and satisfies the requirements of 37

CFR 1.47(a).

With respect to Item (2) above, Petitioner indicates that the statement under 37 CFR 1.47(a) of Maria Fiorella Vergani is attached to the petition in support thereof. However, this statement is not found among the papers filed on 18 December 2006. Thus, Item (2) is not yet satisfied.

Petitioner is referred to Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal, 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. 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.

In sum, Petitioner has satisfied Items (1), (3) and (4) above. However, Petitioner has not satisfied Item (2) by demonstrating: (1) a *bona fide* attempt was made to present a *copy of the application papers for U.S. application 10/569,403 (specification, including claims, drawings, and declaration*) to the nonsigning inventor for his signature and (2) Ms. VENERONI's refusal to sign, either in writing or by telephone, these documents.

For the reasons set forth above, the evidence submitted does not support a finding that the nonsigning inventor refuses to sign the application at this time. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

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

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

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

03/29/2007 SBASHEIR 00000002 250120 10569403
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UNITED STATES PATENT AND TRADEMARK OFFICE

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

11 JUN 2007

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

In re Application of SALVATI et al.	:
Application No.: 10/569,403	: DECISION ON
PCT No.: PCT/IB04/01574	:
Int. Filing: 22 April 2004	:
Priority Date: 25 August 2003	:RENEWED PETITION
Attorney Docket No.: 2503-1201	:
For: ALPHA-AMINOAMIDE DERIVATIVES	:
USEFUL AS ANTI-INFLAMMATORY AGENTS	: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 10 April 2007, to accept the application without the signature of joint inventor, Orietta VENERONI.

BACKGROUND

On 23 February 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 18 August 2006, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) was required.

On 18 December 2006, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor Orietta VENERONI. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor, Orietta VENERONI alleging that Ms. VENERONI refuses to sign the application.

On 29 March 2007, a decision dismissing the petition was mailed indicating that petitioner had failed to demonstrate that a *bona fide* attempt was made to present a *copy of the application papers for U.S. application 10/569,403 (specification, including claims, drawings, and declaration)* to the nonsigning inventor for her signature and Ms. VENERONI's refusal to sign the application papers.

On 10 April 2007, Petitioner filed a renewed petition with additional evidence.

DISCUSSION

As previously stated, 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).

Items (1), (3) and (4) were previously satisfied.

With respect to Item (2) above, Petitioner now provides the statement under 37 CFR 1.47(a) of Maria Fiorella Vergani along with a copy of a postcard receipt, to show that the declaration was originally submitted on 18 December 2006. Petitioner provided proof that on 31 October 2006, 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, and that the inventor accepted delivery of the papers as shown by the signed postal receipt. As of 15 December 2006, no response from the non-signing inventor has been received. Thus, based upon all the facts presented, it can be concluded that the non-signing inventor refuses to cooperate in signing the application papers.

In sum, Petitioner has now satisfied Items (1)-(4) above. For the reasons set forth above, the evidence submitted supports a finding that the nonsigning inventor refuses to sign the application at this time. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 18 December 2006. The application has an international filing date of 22 April 2004 under 35 U.S.C. 363, and a date of 18 December 2006 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

Cynthia M. Kratz

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

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

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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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22 AUG 2006

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

In re Application of	:	
MORI et al.	:	DECISION ON
Application No.: 10/569,429	:	
PCT No.: PCT/JP2004/006784	:	PAPERS
Int. Filing Date: 13 May 2004	:	
Priority Date: 27 August 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 050790	:	
For: RARE EARTH MAGNET POWDER AND	:	
METHOD OF PRODUCING THE SAME	:	

This is a decision on the submission filed by applicants on 23 February 2006, which was accompanied by, *inter alia*, a declaration of the inventors. The indication in this declaration that inventor Hideaki Ono is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 13 May 2004, applicants filed international application PCT/JP2004/006784 which claimed a priority date of 27 August 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 17 March 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 February 2006.

On 23 February 2006, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee, an English translation of the international application, and a declaration of inventors. The indication in this declaration that inventor Hideaki Ono is deceased has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

The declaration filed 23 February 2006 fails to comply with 37 CFR 1.497(a)-(b). It is not clear from the declaration whether the information below Takae Ono's signature is her citizenship, or if it is the citizenship of Hideaki Ono. Additionally, 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 above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

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

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

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

IFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **MORI, Katsuhiko, et al.** **ATTN: PCT BRANCH**

Serial No.: **10/569,429** Group Art Unit: **1742**

Filed: **February 23, 2006** P.T.O. Confirmation No.: **5481**

For: **RARE EARTH MAGNET POWDER AND METHOD OF PRODUCING THE SAME**

OIPE IAP83 OCT 20 2006 PATENT & TRADEMARK OFFICE

RESPONSE TO DECISION ON PAPERS UNDER 37 CFR 1.42 AND RENEWED SUBMISSION UNDER 37 CFR 1.42

Mail Stop PCT
Attn: Daniel Stemmer, Legal Examiner
Commissioner for Patents
Office of PCT Legal Administration
P.O. Box 1450
Alexandria, VA 22313-1450

October 20, 2006

Dear Sir:

In response to the Decision on Papers Under 37 CFR 1.42 dated **August 22, 2006,** enclosed for filing is a Declaration and Power of Attorney executed by Takae ONO who is the legal representative on behalf of Hideaki ONO (deceased) in connection with the above-identified patent application.

In the event that any fees are due with this paper, please charge Deposit Account No. 01-2340.

In the event that this response is not timely filed, the applicant hereby petitions for an appropriate extension of time. The fees for any such extension may be charged to our Deposit Account No. 01-2340.

Respectfully submitted,

ARMSTRONG, KRATZ, QUINTOS,
HANSON & BROOKS, LLP

Donald W. Hanson
Attorney for Applicants
Reg. No. 27,133

DWH/rmp
Atty. Docket No. **050790**
1725 K Street, N.W., Suite 1000
Washington, D.C. 20006
(202) 659-2930

23850
PATENT TRADEMARK OFFICE

Enclosures: Decision on Papers Under 37 CFR 1.42; Declaration

CS
DW

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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OIPE IAP83
OCT 20 2006
PATENT & TRADEMARK OFFICE

22 AUG 2006

2 mos. Response
Due: OCTOBER 22, 2006

RECEIVED
AUG 23 2006
ARMSTRONG, KRATZ, QUINTOS HANSON & BROOKS, LLP

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

In re Application of	:	
MORI et al.	:	DECISION ON
Application No.: 10/569,429	:	
PCT No.: PCT/JP2004/006784	:	PAPERS
Int. Filing Date: 13 May 2004	:	
Priority Date: 27 August 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 050790	:	
For: RARE EARTH MAGNET POWDER AND	:	
METHOD OF PRODUCING THE SAME	:	

This is a decision on the submission filed by applicants on 23 February 2006, which was accompanied by, *inter alia*, a declaration of the inventors. The indication in this declaration that inventor Hideaki Ono is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 13 May 2004, applicants filed international application PCT/JP2004/006784 which claimed a priority date of 27 August 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 17 March 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 February 2006.

On 23 February 2006, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee, an English translation of the international application, and a declaration of inventors. The indication in this declaration that inventor Hideaki Ono is deceased has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

The declaration filed 23 February 2006 fails to comply with 37 CFR 1.497(a)-(b). It is not clear from the declaration whether the information below Takae Ono's signature is her citizenship, or if it is the citizenship of Hideaki Ono. Additionally, 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)).

DOCKETED Les WF
DATE 8/24/06

CONCLUSION

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

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

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

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

Docket No. 050790

Armstrong, Kratz, Quintos, Hanson & Brooks, LLP

OIPE
OCT 20 2006
PATENT & TRADEMARK OFFICE

DECLARATION FOR U.S. PATENT APPLICATION

As a below named inventor, I hereby declare:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention **entitled:**

RARE EARTH MAGNET POWDER AND METHOD OF PRODUCING THE SAME

the specification of which is attached hereto unless the following is checked

☒ was filed on February 23, 2006 as United States Application Number 10/569,429 or was filed on May 13, 2004 as PCT International Application Number PCT/JP2004/006784 and was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment referred above.

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

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

(List prior foreign applications. See note A)

(Number)	(Country)	(Day/Month/Year Filed)	Priority Claimed
2002-315723	Japan	30/October/2002	☐ Yes ☒ No
2003-209090	Japan	27/August/2003	☒ Yes ☐ No
2003-209477	Japan	29/August/2003	☒ Yes ☐ No
2003-370054	Japan	30/October/2003	☒ Yes ☐ No

(See note B) ☐ See attached list for additional prior foreign applications

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

(List prior U.S. Applications)

(Application Serial No.)	(Filing Date)	Status
		☐ Patented ☐ Pending ☐ Abandoned
		☐ Patented ☐ Pending ☐ Abandoned
		☐ Patented ☐ Pending ☐ Abandoned

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

23850
PATENT TRADEMARK OFFICE

Please direct all communications to the following address:

23850
PATENT TRADEMARK OFFICE

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

(See note C)

Full name of sole or first inventor (given name, family name) **Katsuhiko MORI**
Inventor's signature _____ Date _____
Residence **Naka-gun, Japan** Citizenship **Japan**
Post Office Address **c/o MITSUBISHI MATERIALS CORPORATION, Central Research Institute, 297, Kitabukuro-cho 1-chome, Omiya-ku, Saitama-shi, Saitama-ken, Japan**

Full name of second inventor (given name, family name) **Ryoji NAKAYAMA**
Inventor's signature _____ Date _____
Residence **Naka-gun, Japan** Citizenship **Japan**
Post Office Address **c/o MITSUBISHI MATERIALS CORPORATION, Central Research Institute, 297, Kitabukuro-cho 1-chome, Omiya-ku, Saitama-shi, Saitama-ken, Japan**

Full name of third inventor (given name, family name) **Hideaki ONO (deceased)**
Inventor's signature _____ Date _____
Residence **Yokohama-shi, Japan** Citizenship **Japan**
Post Office Address **4-13-77-902, Kosugaya, Sakae-ku, Yokohama-shi, Kanagawa-ken, Japan**

Full name of legal representative on behalf of Hideaki ONO (deceased) (given name, family name) **Takae ONO (legal reperesentative on behalf of Hideaki ONO (deceased)**
Inventor's signature Takae Ono Date September 20, 2006
Residence Yokohama-shi, Japan Citizenship Japan
Post Office Address 4-13-77-902, Kosugaya, Sakae-ku, Yokohama-shi, Kanagawa-ken, Japan

Full name of fourth inventor (given name, family name) **Tetsurou TAYU**
Inventor's signature _____ Date _____
Residence **Yokosuka-shi, Japan** Citizenship **Japan**
Post Office Address **1-64-101, Takatori-cho, Yokosuka-shi, Kanagawa-ken, Japan**

Full name of fifth inventor (given name, family name) Munekatsu SHIMADA
Inventor's signature
Date
Residence Tokyo, Japan
Citizenship Japan
Post Office Address 3-22-14, Minamino, Hachioji-shi, Tokyo, Japan

Full name of sixth inventor (given name, family name) Makoto KANO
Inventor's signature
Date
Residence Yokohama-shi, Japan
Citizenship Japan
Post Office Address 3-405, 4-2-1, Ryokuen, Izumi-ku, Yokohama-shi, Kanagawa-ken, Japan

Full name of seventh inventor (given name, family name) Yoshio KAWASHITA
Inventor's signature
Date
Residence Yokosuka-shi, Japan
Citizenship Japan
Post Office Address 2-13-2-204, Tsurugaoka, Yokosuka-shi, Kanagawa-ken, Japan

Full name of eighth inventor (given name, family name)
Inventor's signature
Date
Residence
Citizenship
Post Office Address

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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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20 DEC 2006

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

In re Application of	:	
MORI et al.	:	DECISION ON
Application No.: 10/569,429	:	
PCT No.: PCT/JP2004/006784	:	PAPERS
Int. Filing Date: 13 May 2004	:	
Priority Date: 27 August 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 050790	:	
For: RARE EARTH MAGNET POWDER AND	:	
METHOD OF PRODUCING THE SAME	:	

This is a decision on the "RESPONSE TO DECISION ON PAPERS UNDER 37 CFR 1.42 AND RENEWED SUBMISSION UNDER 37 CFR 1.42" filed by applicants on 20 October 2006, which was accompanied by, *inter alia*, a declaration of the inventors.

BACKGROUND

On 13 May 2004, applicants filed international application PCT/JP2004/006784 which claimed a priority date of 27 August 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 17 March 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 February 2006.

On 23 February 2006, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee, an English translation of the international application, and a declaration of inventors. The indication in this declaration that inventor Hideaki Ono is deceased has been treated as a request for status under 37 CFR 1.42.

On 22 August 2006, a decision was mailed refusing the request for status under 37 CFR 1.42.

On 20 October 2006, applicants filed the instant "RESPONSE TO DECISION ON PAPERS UNDER 37 CFR 1.42 AND RENEWED SUBMISSION UNDER 37 CFR 1.42" which was accompanied by, *inter alia*, a declaration of the inventors.

DISCUSSION

The submission filed 20 October 2006 has been reviewed and has been found in compliance with 37 CFR 1.42. The declaration filed 20 October 2006 taken together with the declaration filed 23 February 2006 are in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 06/18/2010

Applicant	: Richard Daniel Kay	: DECISION ON REQUEST FOR
Patent Number	: 7642392	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/569,441	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **539** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/09/08

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 10569460 Patent No.: 7419706 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

_____
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

Cynthia Kelly 1795

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

COPY MAILED
JAN 08 2010

Applicant: Sasaki et al.
Appl. No.: 10/569,464
International Filing Date: August 25, 2004
Title: Method For Forming Impurity-Introduced Layer, Method For Cleaning Object To Be Processed Apparatus For Introducing Impurity And Method For Producing Device
Attorney Docket No.: 061282-0226
Pub. No.: US 2006/0264051 A1
Pub. Date: November 23, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on March 19, 2009, and on the second request received on September 18, 2009, for the above-identified application.

The request is DISMISSED.

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." (emphasis added) 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 requests of March 19, 2008 and September 18, 2009 were not timely filed. The time allotted by 37 CFR 1.221(b) expired on January 23, 2007, two months from the November 23, 2006 date of the patent application publication. Since the request was made outside the time period set forth in 37 CFR 1.221(b), relief is not available under that section to requester.

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

[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).

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

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

Inquiries relating to this matter may be directed to Michael Cygan, Legal Advisor, at (571) 272-7700, or the undersigned at (571) 272-7709.

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

14 JUN 2006

United States Patent and Trademark Office

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

David Klein
Beit HaRof'im
18 Menuha VeNahala Street, Room 27
Rehovot 76209
ISRAEL

In re Application of	:	
Finarov et al.	:	
Application No.: 10/569,466	:	DECISION
PCT No.: PCT/IL04/00525	:	
Int. Filing Date: 17 June 2004	:	ON
Priority Date: 23 June 2003	:	
Attorney Docket No.: 1615NOV-US	:	PETITION
For: Method And System For Automatic Target Finding	:	

The petition to revive under 37 CFR 1.137(b) filed 24 February 2006 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." 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 surcharge under 37 CFR 1.492(h). It is noted that no authorization to charge fees to a Deposit Account appears to be present in this application.

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

2 6 SEP 2007

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James W. Kerr
Labatt Brewing Company Limited
303 Richmond Street
London N6B-2HB CA CANADA

In re Application of:
MCKAY, John, Allen
U.S. Application No.: 10/569,474
PCT No.: PCT/CA2004/001580
International Filing Date: 27 August 2004
Priority Date: 27 August 2003
Atty Docket No.: 6.30.3260 PCT/CA-US
For: PACKAGING MACHINE

DECISION ON PETITION

The petition for revival under 37 CFR 1.137(b) filed 23 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

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

Applicant has submitted the petition fee and the required reply, that is, a proper response to the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 05 September 2006 in the form of an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date. 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 referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 23 August 2007.

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

21 MAR 2006

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DELLETT & WALTERS
P. O. BOX 82788
PORTLAND, OR 97282-0788

In re Application of KOBYAKOV	:	
U.S. Application No.: 10/569,478	:	
PCT Application No.: PCT/RU03/00006	:	
Int. Filing Date: 15 January 2003	:	DECISION
Priority Date Claimed: 29 November 2002	:	
Attorney Docket No.: V-333	:	
For: THREE-COMPONENT PIEZOELECTRIC	:	
VIBRATION ACCELEROMETER	:	
PROVIDED WITH A SENSOR	:	

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 22 February 2006.

BACKGROUND

On 15 January 2003, applicant filed international application PCT/RU03/00006, which claimed priority of an earlier Russia application filed 29 November 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 17 June 2004. The thirty-month period for paying the basic national fee in the United States expired on 29 May 2005.

International application PCT/RU03/00006 became abandoned as to the United States for failure to timely pay the basic national fee.

On 22 February 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 15 January 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 22 February 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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MAIER & MAIER, PLLC
1000 DUKE STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Zhang
Application No. 10/569,504
Filed: February 27, 2006
Attorney Docket No. CCPIT-0001-US
For: DUAL-PURPOSED STOVE FOR ROASTING AND HEATING

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the May 30, 2008 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on August 31, 2008. A Notice of Abandonment was mailed on December 16, 2008.

Applicant has submitted an amendment in reply to the May 30, 2008 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the May 30, 2008 non-final Office action, and the $,1620.00 petition fee. All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

The Change of Correspondence Address filed on March 11, 2009 has been entered and made of record.

After the mailing of this decision, the application will be returned to Technology Center AU 3743 for consideration of the amendment filed on March 11, 2009.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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PROSKAUER ROSE LLP
One International Place
Boston MA 02110

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JUN 30 2010

OFFICE OF PETITIONS

In re Application of
Han Sigrist et al.
Application No. 10/569,510
Filed: July 24, 2006
Attorney Docket No. **62130-0036**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed May 13, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Jennifer A. Camacho does not have power of attorney or was ever given power of attorney in the above-identified application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is not applicable.

The request also cannot be approved because the Office no longer accept address changes to a new practitioner/customer number or law firm filed with a request, absent the filing of a power of attorney to the new representative.

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 address of record until otherwise properly notified by the 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

20 MAR 2006

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BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

In re Application of BALAZS SCHATZ Application No.: 10/569,513 PCT No.: PCT/HU02/00153 Int. Filing: 20 December 2002 Priority Date: 08 August 2002 Attorney Docket No.: VAR0101PUSA For: PROTECTIVE DEVICE FOR BEVERAGE CANS	DECISION ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 24 February 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that a declaration, in compliance with 37 CFR 1.497(a) and (b), and executed by the inventors and the $65 surcharge for filing the declaration after the thirty month period 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) is 24 February 2006.

Cynthia M. Kratz

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

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

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Brooks Kushman P.C.
1000 Town Center
Twenty-Second Floor
Southfield, MI 48075

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MAR 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Balazs Schatz	:	
Application No. 10/569,513	:	DECISION ON PETITION
Filed: February 24, 2006	:	TO WITHDRAW
Attorney Docket No. VAR0101PUSA	:	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 28, 2007.

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

A review of the file record indicates that the power of attorney to Brooks Kushman P.C. has been revoked by the applicant of the patent application on March 9, 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 Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Millen,White, Zelano & Branigan, P.C.**
2200 Clarendon Boulevard
Suite 1400
Arlington, VA 22201

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HARNESS, DICKEY, & PIERCE, P.L.C
7700 Bonhomme, Suite 400
ST. LOUIS, MO 63105

Mail Date: 04/21/2010

Applicant	: Jun-Hong Lee	: DECISION ON REQUEST FOR
Patent Number	: 7599723	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/569,516	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **702** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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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	: Jean Koh	: DECISION ON REQUEST FOR
Patent Number	: 7574169	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/569,520	: 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 **385** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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03 MAY 2007

BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Application of GROBLEBEN et al. Application No.: 10/569,523 PCT No.: PCT/EP04/09650 Int. Filing Date: 30 August 2004 Priority Date: 29 August 2003 Attorney Docket No.: 2003P01251WOUS For: INSERTABLE CONTAINER FOR A REFRIGERATING APPLIANCE	DECISION ON DECLARATION under 37 CFR 1.497

This is a decision on applicants' declaration filed on 26 September 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 30 August 2004, applicant filed international application PCT/EP04/09650 which claimed a priority date of 29 August 2003.

On 24 February 2006, 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 13 September 2006, a Notification of Missing Requirements was mailed indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required. Applicant's attention was directed to the application data sheet which indicated there were three inventors, while only two inventors were identified on the published international application.

On 26 September 2006, applicant submitted a Combined Declaration and Power of Attorney executed by the named joint inventors RALF GROBLEBEN AND GERHARD BUSALT and by **THOMAS KNÖLLER and PETRA WÜSTLING** (who were not identified in the published International application).

DISCUSSION

A review of the published international application PCT/EP04/09650 reveals that RALF

GROBLEBEN AND GERHARD BUSALT are the named inventors. Applicant did not provide an Notification of the Recording of A Change (Form PCT/IB/306) issued by the International Bureau adding THOMAS KNÖLLER and PETRA WÜSTLING and removing GERHARD BUSALT as a co-inventor under PCT Rule 92*bis*.

The declaration submitted on 27 February 2006 erroneously identifies THOMAS KNÖLLER and PETRA WÜSTLING as co-inventors and does not identify GERHARD BUSALT as a co-inventor who was named an inventor on the published international application. Since there is no indication that THOMAS KNÖLLER and PETRA WÜSTLING were accepted as inventors by the International Bureau under PCT Rule 92*bis* as a co-inventor and GERHARD BUSALT was removed as an inventor, it is improper to accept the declaration as it identifies the co-inventors. Thus the declaration is not in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

The declaration executed by THOMAS KNÖLLER and PETRA WÜSTLING as joint inventors and not identifying GERHARD BUSALT as an inventor in the above referenced application is unacceptable and not in compliance with 37 CFR 1.497(a) and (b). A new declaration, in compliance with 37 CFR 1.497(a) and (b), executed by the inventors as named in the published international application is required.

In the alternative, Applicant should forward a copy of the Notification of the Recording of a Change (Form PCT/IB/306) if the correction was accepted by the International Bureau. If a correction under PCT Rule 92*bis* was not requested, a petition under 37 CFR 1.497(d) to add inventor Escobar to this application would be required.

The application will be held in the PCT Legal Office to await applicant's further reply.

Any reconsideration on the merits of the petition under 37 CFR §1.497 must be filed within TWO (2) MONTHS from the mail date of this decision or within the time remaining under the 13 September 2006 Notification of Missing Requirements. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.497." No 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.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

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24 JUL 2007

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100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Application of GROBLEBEN et al. Application No.: 10/569,523 PCT No.: PCT/EP04/09650 Int. Filing Date: 30 August 2004 Priority Date: 29 August 2003 Attorney Docket No.: 2003P01251WOUS For: INSERTABLE CONTAINER FOR A REFRIGERATING APPLIANCE	DECISION ON DECLARATION under 37 CFR 1.497

This is a decision on applicants' declaration filed on 14 May 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 30 August 2004, applicant filed international application PCT/EP04/09650 which claimed a priority date of 29 August 2003.

On 24 February 2006, 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 13 September 2006, a Notification of Missing Requirements was mailed indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required. Applicant's attention was directed to the application data sheet which indicated there were three inventors, while only two inventors were identified on the published international application.

On 26 September 2006, applicant submitted a Combined Declaration and Power of Attorney executed by the named joint inventors RALF GROBLEBEN AND GERHARD BUSALT and by **THOMAS KNÖLLER and PETRA WÜSTLING** (who were not identified in the published International application).

On 3 May 2007, the USPTO mailed a decision indicating that applicant should either submit Notification of the Recording of a Change (Form PCT/IB/306) if the correction was accepted by the International Bureau or if a correction under PCT Rule 92*bis* was not requested, a petition under 37 CFR 1.497(d) to add inventors to this application.

DISCUSSION

A review of the published international application PCT/EP04/09650 reveals that RALF GROBLEBEN AND GERHARD BUSALT are the named inventors. Applicant now provides Notification of the Recording of A Change (Form PCT/IB/306) issued by the International Bureau adding THOMAS KNÖLLER and PETRA WÜSTLING and removing GERHARD BUSALT as a co-inventor under PCT Rule 92*bis*. The Notifications were mailed on 03 February 2006 and are acceptable.

The declaration submitted on 26 September 2006 identifies THOMAS KNÖLLER and PETRA WÜSTLING as co-inventors and does not identify GERHARD BUSALT as a co-inventor who was named an inventor on the published international application.

Since THOMAS KNÖLLER and PETRA WÜSTLING were accepted as inventors by the International Bureau under PCT Rule 92*bis* as a co-inventors and GERHARD BUSALT was removed as an inventor, it is proper to accept the declaration as it identifies the co-inventors. Thus the declaration is in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

The declaration, submitted on 26 September 2006, executed by THOMAS KNÖLLER and PETRA WÜSTLING as joint inventors and not identifying GERHARD BUSALT as an inventor in the above referenced application, 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 26 September 2006.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

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RUTAN & TUCKER, LLP
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

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In re Application of	:	
Paul Stapleton, et al.	:	
Application No. 10/569,526	:	DECISION ON PETITION
Filed: February 23, 2006	:	TO WITHDRAW
Attorney Docket No. 100799.0003US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 3, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 petitioner has not certified that (1) he has given reasonable notice to the client, prior to the expiration of the response period, that the practitioners(s) intends to withdraw from employment; (2) delivered to the client or duly authorized agent of 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. Practitioners are not permitted to withdraw from representation as practitioners of record unless all the certifications are made. It is also noted that submitting false certification may violate a practitioner's 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.

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

Enclosure: Form/PTO/SB/83

cc: ROBERT FISH
FISH & ASSOCIATES, PC
2603 MAIN STREET
SUITE 1050
IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Paul Stapleton, et al.	:	
Application No. 10/569,526	:	DECISION ON PETITION
Filed: February 23, 2006	:	TO WITHDRAW
Attorney Docket No. 100799.0003US	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 16, 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 petitioner has not certified that (1) he has given reasonable notice to the client, prior to the expiration of the response period, that the practitioners(s) intends to withdraw from employment; (2) delivered to the client or duly authorized agent of 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. Practitioners are not permitted to withdraw from representation as practitioners of record unless all the certifications are made. It is also noted that submitting false certification may violate a practitioner's 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.

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

cc: ROBERT FISH
FISH & ASSOCIATES, PC
2603 MAIN STREET
SUITE 1050
IRVINE, CA 92614

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FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

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MAY 24 2010

OFFICE OF PETITIONS

In re Application of
Vijayendran, et al.
Application No. 10/569,534
Filed: February 12, 2007
Attorney Docket No. 0540091

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed March 16, 2010.

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) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

20 JUN 2006

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

In re Application of	:	DECISION ON
Valery SMETANNIKOV	:	
Application No.: 10/569,551	:	
PCT No.: PCT/RU2003/000273	:	
Int. Filing Date: 25 June 2003	:	PETITION UNDER
Priority Date: NA	:	
Attorney's Docket No.: 0540-1044	:	
For: GRAPE TREATMENT METHOD ...	:	
WINEMAKING CONTAINER	:	37 CFR 1.137(b)

This decision is in response to applicant's "Petition To Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b)," filed on 27 February 2006. The Deposit Account No.: 50-0417 has been charged the petition fee of $750.00 and the surcharge fee of $65.00 for the late filing of the Declaration for a total amount $825.00.

BACKGROUND

On 25 June 2003, this international application was filed. A copy of the international application was transmitted to the United States from the International Bureau on 29 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 25 December 2005.

On 27 February 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 Patent and Trademark Office (USPTO), which was accompanied by, the basic national fee, petition fee for revival of an unintentionally abandoned application, and executed declaration.

DISCUSSION

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

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

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **27 February 2006**.

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

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

COPY MAILED

AUG 27 2007

OFFICE OF PETITIONS

In re Application of :
Rea et al. :
Application No. 10/569,553 : DECISION ON PETITION
Filed: February 27, 2006 :
Attorney Docket Number: 0234900316 :

This is a decision on the petition, filed July 16, 2007 which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of December 5, 2006, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before March 5, 2007.

Petitioner states that a timely reply was submitted on June 5, 2007, which included the following papers: amendment, drawings and a three month request for extension of time. Petitioner has provided a copy of the reply to the Office action. The petition is also accompanied by a stamped postcard receipt dated June 5, 2007. The postcard receipt serves as prima facie evidence of timely receipt of a reply.

Review of the file record shows the originally submitted reply sent and received in the Office on June 5, 2007 has been located.

Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of December 5, 2006 is hereby withdrawn and the application restored to pending status.

This application is being referred to art unit 3721 for appropriate action in the normal course of business.

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

2 0 MAR 2008

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ROETZEL AND ANDRESS
222 SOUTH MAIN STREET
AKRON OH 44308

In re Application of:
YOUNGS et al.
U.S. Application No.: 10/569,563
PCT No.: PCT/US04/29285
Int'l Filing Date: 07 September 2004
Priority Date: 05 September 2003
Atty Docket No.: 089498.0463.PCT.US
For: METAL COMPLEXES OF N-HETEROCYCLIC CARBENES AS RADIOPHARMACEUTRICALS AND ANTIBIOTICS

DECISION ON PETITION

This decision is issued in response to the "Petition to Revive and to Establish Prior Receipt in the P.T.O. of Items Considered as Omitted by the Notification of Abandonment"filed on 23 January 2008 in the United States Patent and Trademark Office. In effect, applicant requests that the USPTO withdraw the holding of abandonment pursuant to37 CFR 1.182 and to correct the serial number on a 13 November 2006 submission.

BACKGROUND

On 27 February 2006, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Submission under 35 U.S.C. 371 accompanied by, among other materials, payment of the basic filing fee.

On 11 September 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 13 November 2006, applicant allegedly filed a response.

On 11 January 2008, a Notification of Abandonment was mailed to applicant indicating that a response to the Notification of Missing Requirements was not received.

On 23 January 2008, the instant petition considered herein was filed. The petition asserts that, on 13 November 2006, applicant filed a timely response to the 11 September 2006 Office action. A copy of the previously filed response and a copy of a return postcard that itemizes the 13 November 2006 submission and bears a USPTO receipt stamp dated 13 November 2006 accompany the petition.

DISCUSSION

Based on the statements in the present petition and the itemized return postcard bearing the USPTO receipt stamp, it is concluded that materials accompanying the present petition (including the Response to the Notification of Missing Requirements) were originally filed herein on 13 November 2006 as a timely response to the Office action mailed 11 September

2006. However, this submission bore incorrect application number on the transmittal letter (**11**/569,563).

The 23 January 2008 petition will be treated as a petition under 37 CFR 1.182 in order to correct the U.S. national stage application number to 10/569,563 on papers originally on 13 November 2006 and 23 January 2008, which also incorrectly referenced 11/569,563 on the transmittal letter as filed.

Applicant's petition under 37 CFR 1.182 to correct the national stage application number to 10/569,563 on papers filed on 13 November 2006 and 23 January 2008 is **GRANTED**. The papers filed on 13 November 2006 and 23 January 2008 in 11/569,563 will be moved to 10/569,563.

It is noted that the declaration submitted on 13 November 2006 is a four page declaration. The submitted declaration is comprised of seven pages: two pages marked "5/6" and four pages marked "6/6", which are executed by different inventors. The submitted 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

The petition under 37 CFR 1.182 to accept a copy of the response filed on 13 November 2006 in application 11/569,563 with a filing date of 13 November 2006 is **GRANTED**.

The papers filed on 13 November 2006 and 23 January 2008 in 11/569,563 will be moved to 10/569,563. As explained above, a new declaration in compliance with 37 CFR 1.497(a) and (b) is required.

This application is being returned to the National Stage Processing Branch of the Office of PCT Operations for processing in accord with this decision, including correcting USPTO records so as to correct the application number on papers filed on 13 November 2006 and 23 January 2008 in 11/569,563 to 10/569,563.

The Notification of Abandonment issued on 11 January 2008 is hereby VACATED.

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

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

Mail Date: 04/30/2010

Applicant	: Takao Goto	: DECISION ON REQUEST FOR
Patent Number	: 7646417	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/569,580	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/28/2006	: ISSUE CERTIFICATE OF CORRECTION

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

The patent term adjustment has been determined to be **583** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204

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OFFICE OF PETITIONS

In re Patent No. 7,446,656	:	
Application No. 10/569,584	:	
Filed: February 22, 2006	:	ON PETITION
Issued: November 4, 2008	:	
Attorney Docket No. SMTT 338	:	

This is a decision on the petition filed October 16, 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.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is "G4S Justice Services (Canada) Inc." 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. Accordingly, petitioner requests that the patent issue to "G4s Justice Services (Canada) Inc."

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

A review of Office database assignment records reflects that an assignment to "G4S Justice Services (Canada) Inc." has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that "G4S Justice Services (Canada) Inc." was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

---

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

In view of the above, **the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth "G4S Justice Services (Canada) Inc." as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3206. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,445,656	:	
Issue Date: November 4, 2008	:	
Application No. 10/569,584	:	NOTICE
Filed: February 22, 2006	:	
Attorney Docket No. SMTT 338	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Liana Walsh
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,601	02/24/2006	Toshihiko Ouchi	03500.119231.	1368

5514 7590 06/17/2008
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

ART UNIT	PAPER NUMBER
2884	

MAIL DATE	DELIVERY MODE
06/17/2008	PAPER

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

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

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

In re Application of
Toshihiko OUCHI, et al.
Application No.: 10/569,601
Filed: 02/24/2006
Attorney Docket No.: 03500.119231.

For: OPTICAL SEMICONDUCTOR DEVICE

: DECISION ON REQUEST TO
: PARTICIPATE IN THE PATENT
: PROSECUTION HIGHWAY
: PILOT PROGRAM AND PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed May 30, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

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, note where the JPO 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 JPO application with similar claims and the JPO priority application;
2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the 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) and
    c. A statement that the English translation is accurate;
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 JPO 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 JPO application(s) containing the allowable/patentable claim(s) or
        ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then a copy of the Notification of Reasons for Refusal or
        iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;

    Further, if a copy of the documents from a or b above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the 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 language translation of the JPO Office action from (5)(a)(i)-(ii) above
    c. A statement that the English translation is accurate;
6. Applicant must submit:
    a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
    b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

CONCLUSION

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.

Response must be filed via the Electronic Filing System (EFS) with the Document Code PPH.PET.652, unless this is a request from the pilot program in which case a fax submission is also acceptable. Fax may be sent to Michael Day at 571-273-1568.

Telephone inquiries concerning this decision should be directed to Michael Day at 571-272-1568.

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.

This application is being forwarded to the examiner for action on the merits commensurate with this decision.

Michael Day
TQAS
Technology Center 2800 – Semiconductors
Electrical & Optical Systems & Components

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 04/20/2010

Applicant	: Trevor Lindsay Young	: DECISION ON REQUEST FOR
Patent Number	: 7592201	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/569,613	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **780** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Millen, White, Zelano & Branigan
Arlington Courthouse Plaza 1
2200 Clarendon Blvd. Suite 1400
Arlington, VA 22201

19 MAR 2007

In re Application of	:	
Eichhorst et al.	:	
Application No.: 10/569,626	:	DECISION
PCT No.: PCT/EP04/09618	:	
Int. Filing Date: 23 August 2004	:	ON
Priority Date: 29 August 2003	:	
Attorney Docket No.: GULDE-0065	:	PETITION
For: Device For Injecting An Injectable Product	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 01 February 2007.

BACKGROUND

This international application was filed on 23 August 2004, claimed an earlier priority date of 29 August 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 17 March 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 28 February 2006. Applicants filed *inter alia* the basic national fee on 27 February 2006.

On 01 November 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

DISCUSSION

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

Regarding requirement (1), the $200.00 petition fee was paid on 01 February 2007.

Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor Heidl be excused because he allegedly "refuses to execute the declaration." Counsel's attention is respectfully drawn to MPEP 409.03(d), which states in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the

> assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal. When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition

Petitioner states that "On March 1, 2006, a letter was sent to Heidl Wolfgang with a copy of the declaration and assignment forms for execution. The application was identified by title and as PCT/EP2004/009618 on the letter...," that a second letter was sent to "Heidl Wolfgang" on 11 May 2006, and that a letter was sent to Mr. Heidl's attorney on 26 June 2006, but "no signed documents were returned to assignee." Petitioner has included copies of German language letters dated 26 June 2006, 01 March 2006 and 11 May 2006, signed by a Mr. Schneider. Also provided are documents entitled as English translations of letters dated 01 March 2006, 11 May 2006 and 26 June 2006. Petitioner has not provided a statement by Mr. Schneider or by anyone else having first-hand knowledge of the circumstances surrounding the alleged transmittal of said letters. The translation dated 01 March 2006 identifies this international application by number, but does not specify that an oath or declaration and a complete copy of the application were attached; instead, it merely refers to "the necessary documents." The translation dated 11 May 2006 also fails to specify that an oath or declaration and a complete copy of the application were attached; instead, it merely refers to "the necessary signed Powers of Attorney." The translation addressed to Mr. Gosdin, dated 26 June 2006, alludes to the instant international application and asks Mr. Gosdin "to act on your client to sign the necessary declaration for the U.S. Patent Office." However, this does not establish that a complete copy of the application (and a declaration) were transmitted to Mr. Heidl. Moreover, counsel's failure to receive a reply based on this letter does not establish refusal on the part of Mr. Heidl himself. For all these reasons, the evidence presented provides an insufficient basis to conclude that Mr. Heidl's conduct constitutes a "refusal" within the meaning of 37 CFR 1.47(a).

To the extent that petitioner is arguing that Mr. Heidl could not be found or reached after diligent effort, attention is again drawn to MPEP 409.03(d), which explains in part that

> 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.

Interpreted in view of MPEP 409.03(d), the evidence at most establishes that correspondence addressed to Mr. Heidl at his known address and via his attorney may not have reached him; there is no clear indication of record that his whereabouts are unknown. Petitioner has provided no showing as to any further diligent efforts which may have been undertaken to reach him - for instance, internet searches, telephone directory searches, skip traces, inquiries made of known associates of Mr. Heidl, and the like. In the absence of a suitable showing as to such diligent efforts, it would not be appropriate to conclude that Mr. Heidl could not be found or reached.

Regarding requirement (3), the petition appears to include a statement of Mr. Heidl's last known address, though it refers to him as "Heidl Wolfgang" rather than – Wolfgang Heidl – or "HEIDL, Wolfgang." Clarification is required.

Regarding requirement (4), the declaration filed on 01 February 2007 nominates both of the inventors listed on the published international application (Peter Eichhorst and Wolfgang Heidl), and it has been executed by Mr. Eichhorst. As such, requirement (4) has 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(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

0 4 SEP 2008

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Millen, White, Zelano & Branigan
Arlington Courthouse Plaza 1
2200 Clarendon Blvd. Suite 1400
Arlington, VA 22201

In re Application of	:	
Eichhorst et al.	:	
Application No.: 10/569,626	:	DECISION
PCT No.: PCT/EP04/09618	:	
Int. Filing Date: 23 August 2004	:	ON
Priority Date: 29 August 2003	:	
Attorney Docket No.: GULDE-0065	:	PETITION
For: Device For Injecting An Injectable Product	:	

This is in response to the "Request For Withdrawal Of Abandonment" filed on 09 June 2008, which was accompanied by a copy of a renewed petition under 37 CFR 1.47(a).

DISCUSSION

In a Decision mailed on 19 March 2007, the petition under 37 CFR 1.47(a) filed on 01 February 2007 was dismissed, without prejudice, because "the evidence presented provides an insufficient basis to conclude that Mr. Heidl's conduct constitutes a "refusal" within the meaning of 37 CFR 1.47(a)," and because "it would not be appropriate to conclude that Mr. Heidl could not be found or reached." Clarification of the statement of the inventor's last known address was also requested.

On 11 January 2008, a Notice of Abandonment was mailed to counsel, indicating that this application had become abandoned for failure to timely reply to the Decision mailed on 19 March 2007.

Petition To Withdraw Holding Of Abandonment

Petitioner requests withdrawal of the holding of abandonment on the basis that a renewed submission allegedly was filed on 21 May 2007. Petitioner also asserts that "Counsel's office never received a Notice of Abandonment for the above-identified application." In support, petitioner provides "a copy of the Response to the Decision on papers Under 37 C.F.R. § 1.47(a), a copy of a postcard with a USPTO date stamp of May 21, 2007 indicating receipt of the submission w/declaration." Inspection of the return postcard receipt reveals that it itemized *inter alia* a "... submission under 37 C.F.R. § 1.47(a) with declaration," and was stamped as received by the USPTO on "MAY 21 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 09 June 2008 copy of the renewed submission under 37 CFR 1.47(a)(including the declaration) is being regarded as a copy of the respective correspondence originally filed on 21 May 2007. As such, the holding of abandonment is hereby **WITHDRAWN**, and the Notice of Abandonment mailed on 11 January 2008 is hereby **VACATED.** It is noted that petitioner refers to an assignment, but the assignment in question already has been recorded.

Renewed Petition Under 37 CFR 1.47(a)

In response to the Decision mailed on 19 March 2007, petitioner has provided a declaration document executed by Wolfgang Heidl. As such, the petition under 37 CFR 1.47(a) is now **MOOT**.

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.

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 **21 May 2007**.

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

12 MAY 2006

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Toni-Junell Herbert
Reed Smith
3110 Fairview Park Drive
Suite 1400
Falls Church VA 22042

In re Application of	:	
KREUTZ, Werner	:	
Application No.: 10/569,630	:	DECISION
PCT No.: PCT/EP04/09276	:	
Int. Filing Date: 18 August 2004	:	ON PETITION UNDER
Priority Date: 19 August 2003	:	
Docket No.: 966927.00039	:	37 CFR 1.137(b)
For: DIFLUNISAL FOR THE TREATMENT OF	:	
CANCER	:	

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 27 February 2006 is **GRANTED**.

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

A signed oath or declaration has not yet been submitted.

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

27 SEP 2006

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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of: YAMAKAZI, Mikio, et al.	:	
U.S. Application No.: 10/569,634	:	
PCT No.: PCT/JP2005/007422	:	DECISION ON REQUEST
International Filing Date: 19 April 2005	:	TO CORRECT SPELLING
Priority Date: 10 November 2004	:	OF INVENTOR'S NAME
Attorney's Docket No.: 124147	:	AND REQUEST FOR
For: NON-MAGNETIC CONCRETE STRUCTURE, A	:	REFUND
SIDE-WALL OF GUIDEWAY AND METHOD	:	
FOR INSTALLING SIDEWALL OF	:	
GUIDEWAY	:	

This decision is issued in response to applicants' "Notification Of Correction Of Translation Error" filed 08 March 2006, treated herein as a request to correct the spelling of the first name of the inventor identified on the international application as Kouichi KANOH, and the "Request For Refund To Deposit Account" filed 17 May 2006. No petition fee is required.

BACKGROUND

On 19 April 2005, applicants filed international application PCT/JP2005/007422. The application claimed a priority date of 14 November 2004, and it designated the United States. On 18 May 2006, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 10 May 2007.

On 27 February 2006, applicants filed a transmittal letter for entry into the national stage in the United States. The submission requested immediate examination and it included, among other materials, payment of the basic national fee, a copy of the international application, a translation of the international application into English, a preliminary amendment, an Application Data Sheet (ADS), and an executed declaration.

On 08 March 2006, applicants filed the "Notification Of Correction Of Translation Error" considered herein. The submission asserts that the English translation of the seventh inventor's first name was incorrectly listed in the PCT application as "Kouichi," and that the proper translation of this inventor's first name is "Koichi," as set forth in the ADS and declaration filed herein.

On 24 April 2006, applicants filed a second preliminary amendment directed to the claims herein.

On 17 May 2006, applicants filed the "Request For Refund To Deposit Account" considered herein. This request seeks a refund of a $50 fee charged to applicants for extra claims over twenty.

DISCUSSION

1. Request To Correct Error In The Spelling Of The Inventor's Name:

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 under 37 CFR 1.63 needed. Here, applicants' 08 March 2006 submission states that the English translation of the seventh inventor's first name was listed incorrectly on the international application ("Kouichi") due to an error in translation. Applicants also confirm that the spelling of the English translation of this inventor's first name on the ADS and the declaration filed herein on 27 February 2006 ("Koichi") is correct. Based on the above, the correct English translation of the first name of the seventh inventor is accepted as Koichi, as set forth in the ADS and declaration.

However, a review of the declaration reveals a disparity between the spelling of the second inventor's last name in the international application ("KATOU") and the spelling of this inventor's name in the ADS and the declaration ("KATO"). Applicants must provide an acceptable explanation regarding this disparity (i.e., a statement such as that provided herein with respect to the second inventor) before the declaration can be accepted.

2. Request For Refund:

Applicant was charged a $50 fee for inclusion of an additional claim over twenty. However, as noted by applicants in the refund request, the present application (as amended in the second preliminary amendment filed 24 April 2006) includes less than twenty total claims. A review of the second preliminary amendment confirms that, although the claims are numbered up to 21, claims 1-6 have been cancelled. Accordingly, the total number of claims remaining in the application are less than twenty.

The $50 fee, based as it was on the purported inclusion of more than twenty total claims, is therefore appropriately refunded to applicants' Deposit Account.

CONCLUSION

The request for refund filed 17 May 2006 is **GRANTED**. The $50 fee for extra claims will be refunded to Deposit Account No. 15-0461.

Applicants' request to correct the spelling of the first name of the seventh inventor is **GRANTED**. The correct English translation of the first name of the seventh inventor is accepted Kiori, as set forth in the declaration and ADS filed 27 February 2006.

However, the declaration filed 27 February 2006 cannot be accepted on the present record based on the disparity between the third inventor's second name as listed on the international application ("KATOU") and as listed on the ADS and declaration filed herein ("KATO).

Applicants are given **TWO (2) MONTHS** from the mail date of this decision to submit either: (1) a statement confirming that the correct name for the third inventor is KATO, as listed on the ADS and declaration, and that the listing of this inventor's name as KATOU on the international application was the result of a typographical or transliteration error; or (2) if this inventor's name has been changed since the filing of the international application, a grantable petition under 37 CFR 1.182 to correct the inventor's name.

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

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

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

Adjustment date: 09/27/2006 SRASHEIR
04/27/2006 MKAYPAGH 00000136 150461 10569634
01 FC:1615 50.00 CR

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30 NOV 2006

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of: YAMAKAZI, Mikio, et al. U.S. Application No.: 10/569,634 PCT No.: PCT/JP2005/007422 International Filing Date: 19 April 2005 Priority Date: 10 November 2004 Attorney's Docket No.: 124147 For: NON-MAGNETIC CONCRETE STRUCTURE, A SIDE-WALL OF GUIDEWAY AND METHOD FOR INSTALLING SIDEWALL OF GUIDEWAY	DECISION ON SECOND REQUEST TO CORRECT INVENTOR'S NAME

This decision is issued in response to applicants' "Response To Decision And Notification Of Correction Of Translation Error" filed 12 October 2006, treated herein as a request to correct the spelling of the name of the inventor identified on the international application as Satoru KATOU to Satoru KATO. No petition fee is required.

BACKGROUND

The procedural background for the present application was set forth in the decision mailed herein on 27 September 2006. In that decision, applicants' request for a $50 refund was granted, as was applicants' request to correct the spelling of the first name of the seventh inventor from Kouichi to Koichi. However, the decision noted an additional disparity regarding the spelling of the inventors' names. Specifically, the decision noted that the inventor listed on the international application as Satoru KATOU was identified on the ADS and declaration as Satoru KATO.

On 12 October 2006, applicants filed the "Response To Decision And Notification Of Correction Of Translation Error" considered herein. The submission asserts that the English translation of the third inventor's name was incorrectly listed in the PCT application as "KATOU," and that the proper translation of this inventor's last name is "KATO," as set forth in the ADS and declaration filed herein.

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 under 37 CFR 1.63 needed. Here,

applicants' 12 October 2006 submission states that the English translation of the third inventor's last name was listed incorrectly on the international application as "KATOU" due to an error in translation. Applicants also confirm that the spelling of the English translation of this inventor's last name on the ADS and the declaration filed herein on 27 February 2006 ("KATO") is correct. Based on the above, the correct English translation of the last name of the third inventor is accepted as KATO, as set forth in the ADS and declaration.

CONCLUSION

Applicants' request to correct the spelling of the last name of the third inventor is **GRANTED**. The correct English translation of the last name of the third inventor is accepted as KATO, as set forth in the declaration and ADS filed 27 February 2006.

Based on the above, and the previous decision mailed herein on 27 September 2006, the declaration filed on 27 February 2006 is acceptable in compliance with 37 CFR 1.497.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 27 February 2006.

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

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 04/20/2010

Applicant	: Trevor Lindsay Young	: DECISION ON REQUEST FOR
Patent Number	: 7585781	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/569,652	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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HOWARD & HOWARD ATTORNEYS PLLC
450 WEST FOURTH STREET
ROYAL OAK MI 48067

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OCT 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Ahn et al.	:	
Application No. 10/569,657	:	DECISION ON PETITION
Filed: February 24, 2006	:	
Attorney Docket No. 060233.00026	:	

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**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 3, 2009, as required by the Notice of Allowance and Fee(s) Due mailed May 1, 2009. Accordingly, the date of abandonment of this application is August 4, 2009. A Notice of Abandonment was mailed August 26, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and publication fee of $300.00; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

Mail Date: 04/21/2010

Applicant	: Chang-Jun Ahn	: DECISION ON REQUEST FOR
Patent Number	: 7630291	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/569,657	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **735** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

Mail Date: 05/18/2010

Applicant : Chang-Jun Ahn
Patent Number : 7630291
Issue Date : 12/08/2009
Application No : 10/569,657
Filed : 02/24/2006

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

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

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

The patent term adjustment has been determined to be **820** 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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4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

COPY MAILED

OCT 12 2007

OFFICE OF PETITIONS

Applicant: Giazotto
Appl. No.: 10/569,699
International Filing Date: August 26, 2004
Title: OPTICALLY MEASURING THE DISPACING OR LOAD FOR AN AIRCRAFT COMPONENT, LANDING GEAR, BRAKING CONTROL
Attorney Docket No.: 2733.41US01
Pub. No.: 2007/0006662 A1
Pub. Date: January 11, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 8, 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 because changes in a preliminary amendment filed February 24, 2006 via a substitute specification were 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 errors noted by requestor are <u>not</u> Office errors. The text changes in the preliminary amendment received on February 24, 2006 to the specification were not part of the initial application filing. 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

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

application publications are not required to include preliminary amendments, according to 37 CFR 1.215(a), [2] which says the following, in part:

> (a) ... The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. **The patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b),** amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun. (emphasis added)

§ 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 Office electronic filing system requirements. The Office correctly published the application in accordance with 37 CFR 1.215(a).

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.

---

[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

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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

Mail Date: 04/21/2010

Applicant	: Alessandro Riccardo Giazotto	: DECISION ON REQUEST FOR
Patent Number	: 7578199	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/569,699	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **223** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

21 MAR 2006

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FULWIDER PATON
6060 Center Drive
10th Floor
Los Angeles, CA 90045

In re Application of	:	
LOMAS, Peter	:	
U.S. Application No.: 10/569,705	:	
PCT No.: PCT/GB2004/001904	:	**DECISION ON**
Int. Filing Date: 05 May 2004	:	**PETITION FOR REVIVAL**
Priority Date: 21 August 2003	:	**UNDER 37 CFR 1.137(b)**
Attorney Docket No.: FORRE 73070	:	
For: A CENTRIFUGATION DEVICE	:	

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 24 February 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.

No declaration was provided.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

3 0 JAN 2008

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CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER, NJ 07936-1080

In re Application of GRIFFIN et al	:	
U.S. Application No.: 10/569,708	:	
PCT Application No.: PCT/US2003/026629	:	
Int. Filing Date: 25 August 2003	:	DECISION
Priority Date Claimed: none	:	
Attorney Docket No.: 4-33326A-US-PCT	:	
For: METHOD OF TREATING MIXED	:	
LINEAGE LEUKEMIA . . .	:	

This is in response to applicant's "Petition Under 37 CFR Section §1.182" filed 23 January 2008.

BACKGROUND

On 25 August 2003, applicant filed international application PCT/US2003/026629. The thirty-month period for paying the basic national fee in the United States expired on 25 February 2006.

On 24 February 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 September 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 08 January 2007, applicant filed an executed declaration via the EFS-Web electronic filing system of the USPTO.

On 11 January 2008, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 23 January 2008, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The petition states that applicant inadvertently identified the 23 January 2008 submission as a new application filing rather than a follow-on submission to the present application. The 23 January 2008 papers were assigned U.S. Application Number 11/620,855. A review of the file for U.S. Application Number 11/620,855 reveals that the declaration is present. Applicant's explanation for the error is accepted. The declaration will be transferred to the present application file.

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 11 January 2008 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Defective Response (Form PCT/DO/EO/916) which should indicate that the declaration filed 23 January 2008 is improper with respect to inventor James Griffin. In particular, it is apparent that page 3 (i.e. the signature page) was transmitted by facsimile and then combined with pages 1 and 2 of a different copy of the declaration. Applicant must supply a copy of the complete document which is presented to and executed by the inventor.

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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OFFICE OF PETITIONS

In re Application of	:	
Brendon Arthur McQuaid	:	
Application No. 10/569,738	:	DECISION ON PETITION
Filed: February 28, 2006	:	TO WITHDRAW
Attorney Docket No. 050026-0027	:	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 January 26, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that Toby H. Kusmer 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 above-listed address until otherwise properly notified by the applicant.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Toby H. Kusmer
28 State St
Boston, MA 02109

17 MAR 2006

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Paul F. Fehlner, Ph.D.
DARBY & DARBY P.C.
P.O. Box 5257
New York, NY 10150-5257

In re Application of: WANG, Qiang, et al. U.S. Application No.: 10/569,744 PCT No.: PCT/US2004/027324 International Filing Date: 20 August 2004 Priority Date: 20 August 2003 Attorney's Docket No.: 20213/1201487-US1 For: A NOVEL GENE AND PROTEIN ASSOCIATED WITH ANGIOGENESIS AND ENDOTHELIAL CELL-SPECIFIC APOPTOSIS	DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition for revival under 37 CFR 1.137(b) filed 23 February 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" 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 referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497, the search and examination fees, the surcharge for filing the oath or declaration later than thirty months after the priority date, and any necessary sequence listing materials.

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

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0 6 DEC 2007

Anne J. Collins
Hamilton, Brook, Smith & Reynolds
530 Virginia Road
P.O. Box 9133
Concord, MA 01742-9133

In re Application of Wang et al. Serial No.: 10/569,744 PCT No.: PCT/US2004/027324 Int. Filing Date: 20 August 2004 Priority Date: 20 August 2003 Attorney's Docket No.: 3786.1017-005 For: A NOVEL GENE AND PROTEIN ASSOCIATED WITH ANGIOGENESIS AND ENDOTHELIAL CELL-SPECIFIC APOPTOSIS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is responsive to the "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 C.F.R. §1.137(b)" filed 15 June 2007.

BACKGROUND

On 20 August 2004, applicants filed international application PCT/US2004/027324, which claimed priority of an earlier United States application filed 20 August 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 March 2005. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 20 February 2006.

On 23 February 2006, applicant filed a copy of the application, a petition to revive and the petition fee, and the basic national fee. These papers were assigned U.S. Serial No. 10/569,744.

On 17 March 2006, that petition was granted. On 10 July 2006, the United States Patent and Trademark mailed the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration, additional fees and a copy of the sequence listing computer readable form and a statement indicating that the computer readable form is identical to the paper copy. The notification set a two-month time period in which to respond.

On 15 June 2007, applicant filed the current response including the petition, the declarations, the fees, the computer readable form of the sequence listing along with a statement indicating that the paper copy and the computer readable form are the same.

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. With respect to element (3), applicant provided the required petition fee. Therefore, the petition to revive is GRANTED.

CONCLUSION

The petition to revive the application abandoned under 35 U.S.C. 371(d) is **GRANTED** as to the National Stage in the United States of America.

This application is being forwarded to the national stage office for further processing in accordance with this decision.

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
Fax: (571) 273-0459

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COURSEY IP LAW, P.C.
POST OFFICE BOX 29509
ATLANTA GA 30359

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DEC 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Alexandre A. ZAVADTSEV et al.	:	
Application No. 10/569,752	:	DECISION ON PETITION
Filed: February 26, 2007	:	
Attorney Docket No. SCAN050US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 02, 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 August 01, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed May 01, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 02, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720.00 and publication fee of $300.00; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

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

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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12 APR 2007

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

In re Application of MANDLER et al. Application No.: 10/569,762 PCT No.: PCT/IB04/02721 Int. Filing: 20 August 2004 Priority Date: 23 August 2003 Attorney Docket No.: 19414005US1 For: METHOD FOR MANUFACTURING OPHTHALMIC LENSES USING CIRCULAR BLANKS	:	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' Petition under 37 CFR 1.47(a) filed 15 March 2007 to accept the application without the signature of joint inventor, Marc Silva.

BACKGROUND

On 20 August 2004, applicants filed international application PCT/IB04/02721 which claimed a priority date of 23 August 2003 and which designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 23 February 2006.

On 22 February 2006, applicants filed a Transmittal Letter for entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee.

On 17 August 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.

On 15 March 2007, applicants filed a response to the Notification Of Missing Requirements. The response included payment of the required surcharge, a declaration executed by three of the four named inventors, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of the remaining inventor, Marc Silva, whom applicants assert has refused to sign the application documents.

DISCUSSION

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

Applicants here have submitted part of the appropriate petition fee. Item (1) is therefore satisfied.

Regarding item (2), applicant states that Marc Silva's last known address is "Roanoke, VA 24015." This statement has been construed to mean that Mr. Silva's last known address is 2223 Carter Road SW, Roanoke, VA 24015. If this is an incorrect interpretation in view of the rules, Petitioner must immediately notify the Office PCT Legal Administration of such error. Accordingly, item (2) is therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by three of the four inventors and including an unsigned signature box identifying the nonsigning inventor. This declaration is treated as having been executed by the available inventors on their own behalf and on behalf of the nonsigning inventor. Item (3) is therefore satisfied.

Regarding item (4), 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 Marc Silva's refusal to execute the application papers is contained in the "Declaration of Vincent G. Yquel" 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 (4) is therefore satisfied.

Based on the above, applicants have satisfied all the requirements for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted under 37 CFR 1.47(a) without the signature of inventor Marc Silva.

As provided 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 set forth in the petition, and notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) is 15 March 2007.

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,763	07/24/2006	Walter Fix	411000-146	6074

27162 7590 07/10/2008
CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI,
STEWART & OLSTEIN
5 BECKER FARM ROAD
ROSELAND, NJ 07068

EXAMINER
GARCIA, JOANNIE A

ART UNIT	PAPER NUMBER
2823	

MAIL DATE	DELIVERY MODE
07/10/2008	PAPER

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

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

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10569763	7/24/2006	FIX ET AL.	411000-146

EXAMINER
MATTHEW SMITH

ART UNIT	PAPER
2823	20080708

DATE MAILED:

CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI,
STEWART & OLSTEIN
5 BECKER FARM ROAD
ROSELAND, NJ 07068

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

Commissioner for Patents

Enclosed herein is a Decision on applicant's Petition of June 23, 2008. The application is being forwarded to 1) the TSS to correctly enter the Petition into Palm(already scanned in in IFW) and 2) to the examiner for further action commensurate with the Decision to reopen prosecution.

Matthew S. Smith
SPE
Art Unit: 2823

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Paper No. 07082008

William Squire
CARRELLA, BYRNE, BAIN, GILFILLAN, CECCHI,
STEWART & OLSTEIN
5 Becker Farm Road
Roseland, NJ 07068

Appl No.: 10/569,763	:	
Inv: Fix et al.	:	**DECISION ON PETITION**
Filed: July 24, 2006	:	**UNDER** *37 CFR 1.181*
For: ORGANIC ELECTRONIC COMPONENT WITH HIGH RESOLUTION STRUCTURING, AND METHOD OF THE PRODUCTION THEREOF	:	

This is a decision on the applicant's "Petition to Supervisory Review of the Denial of Entry of an Amendment via an Advisory Action" filed under 37 CFR 1.181 filed June 23, 2008. The applicant requests that the Advisory Action of June 11, 2008 be vacated and withdrawn and the proposed amendment to claims 1 and 5 indicated therein be entered. A Brief history of the prosecution of the case is in order. The application had been prosecuted with a final rejection having been mailed on April 14, 2008. The applicant submitted an Amendment under 37 CFR 1.116 on May 14, 2008. The examiner mailed an Advisory Action indicating non-entry of the amendment and provided reasons for non-entry. This resulted in the applicant submitting this petition.

Firstly, after reviewing the Final Rejection and the applicant's arguments, the supervisor finds the applicant's comments persuasive. The claims as presently written

would require a laser generated depression formed in a substrate and/or lower layer of the primarily organic electronic component. The depression needs to be made in at least an insulating material to give meaning or essence to the "interconnecting" language of line 8 of claim 1. (Otherwise, the connections would be shorted.) As the reference relied upon by the examiner only makes depression in metal layer, the reference does not read on the claims as submitted. Consequently, the PROSECUTION WILL BE REOPENED based upon this rationale.

As to the entering of the amendment as filed on May 14, 2008, the amendment appears to have been a "proposed amendment" (see title of the paper) and furthermore, was not filed under the format as outlined in 37 CFR 1.121. (Claims submitted are not on a separate page.) Consequently, the amendment CANNOT BE ENTERED. However, due to the reopening of prosecution, the applicant is requested to refile the amendment in appropriate form under 37 CFR 1.121.

The file is being returned to the examiner for further prosecution commensurate with the decisions and reading of the claims as outlined herein. The examiner will review the prior art in light of the claims that existed prior to the non-compliant amendment of May 14, 2008; but, should the applicant desire these changes to be entered, a compliant amendment will be needed.

Matthew S. Smith

Supervisory Primary Examiner AU 2823

Technology Center 2800

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WINSTEAD, P.C.
P.O. BOX 50784
DALLAS, TX 75201

COPY MAILED
DEC 03 2008

Applicant: LUCHSINGER
Appl. No.: 10/569,764
International Filing Date: April 18, 2007
Title: FLOATING BEARING STRUCTURE WITH STATIC BUOYANCY
Attorney Docket No.: 27793-00108USPX
Pub. No.: 2007/0267538 A1
Pub. Date: November 22, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on January 22, 2008, for the above-identified application.

The request is granted.

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

It would greatly benefit the Office if the request for corrected publication pointed out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted

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

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

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RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Takahito Oyamada	: DECISION ON REQUEST FOR
Patent Number	: 7598668	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/569,807	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **417** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

Mail Date: 05/18/2010

Applicant : Takahito Oyamada
Patent Number : 7598668
Issue Date : 10/06/2009
Application No : 10/569,807
Filed : 02/27/2006

: 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 **457** 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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 07/06/2010

Applicant	: Yoshihiro Akamatsu	: DECISION ON REQUEST FOR
Patent Number	: 7659005	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/569,836	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Yuichi Koreeda	: DECISION ON REQUEST FOR
Patent Number	: 7641397	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/569,856	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **817** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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14 JUL 2006

Needle & Rosenberg, P.C.
Suite 1000
999 Peachtree Street
Atlanta, GA 30309-3915

In re Application of LI, Xiaodong et al. Application No.: 10/569,870 PCT No.: PCT/US04/25459 Int. Filing Date: 06 August 2004 Priority Date: 06 August 2003 Docket No.: 19328.0001P1 For: T1R HETERO-OLIGOMERIC ... AND TASTE COMPOUNDS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' "Petition Under 37 CFR §1.137(b) For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally," filed in the above-captioned application on 28 February 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.

The declaration of the inventors complies 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. 14-0629, 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 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of 28 February 2006.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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14 MAY 2008

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26304
KATTAN MUCHIN ROSENMAN LLP
575 Madison Avenue
New York, NY 10022-2585

In re Application of
FUJITA *et al*
U.S. Application No.: 10/569,875
PCT No.: PCT/JP2003/013734
Int. Filing Date: 01 December 2005
Priority Date: 01 December 2004
Docket No.: FUJI 22.417(100794-01054)
For: CONNECTION DESTINATION BASE STATION DETERMINATION DEVICE

DECISION

This is a decision on the "Petition Under 37 CFR § 1.10 Requesting Withdrawal of Holding of Abandonment" filed 11 April 2008. This is treated as a petition under 37 CFR 1.10(e). No fee is required.

BACKGROUND

On 15 August 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 25 August 2006, applicants purportedly filed a response containing an executed declaration and assignment using Express Mail service. However, these papers are not located in the file and the surcharge fee and an assignment fee were not charged in the subject application.

On 03 April 2008, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909), indicating that the application went abandoned for failure to timely reply to the Form PCT/DO/EO/905 mailed 15 August 2006.

On 11 April 2008, applicants filed the subject petition which was accompanied by, *inter alia*, copies of the documents purportedly filed 25 August 2006 and a copy of the USPS Track/Confirm record for Express Mail No. EV732744477US.

DISCUSSION

Applicants claim that a response to the Form PCT/DO/EO/905 was originally submitted on 25 August 2006 with the USPS using Express Mail service and was

received by the USPTO on 28 August 2006. Applicants request that the USPTO withdraw the holding of abandonment and enter the response in the subject application as filed 25 August 2006.

37 CFR 1.10(e) provides procedures for filing a petition to accord a filing date as of the date of deposit with the USPS, where correspondence deposited as Express Mail is never received by the Office.

The requirements of a petition under 37 CFR 1.10(e) include 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.

Here, the petition is considered timely. Item (1) of 37 CFR 1.10(e) is complete. Applicants also provided a copy of the transmittal letter which lists the Express Mail number and states that the papers were deposited on 25 August 2006. This evidence satisfies item (2) of 37 CFR 1.10(e). The statements in the petition satisfy item (4).

Regarding item (3), applicants included a copy of the originally deposited papers and a copy of the USPS Track/Confirm records for Express Mail Label No.

EV732744477US showing acceptance on 25 August 2006 at 6:35 pm in New York, NY 10150. Applicants also state that they never received the postcard receipt from the USPTO.

This evidence is not sufficient to satisfy item (3).

Applicants must also provide a copy of the Customer Copy of Express Mail mailing label No. EV732744477US showing the "date-in" for a grantable petition under 37 CFR 1.10(e).

CONCLUSION

For the reason listed above, applicants' petition under 37 CFR 1.10(e) is **DISMISSED** without prejudice.

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

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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KATTAN MUCHIN ROSENMAN LLP
575 Madison Avenue
New York, NY 10022-2585

In re Application of
FUJITA *et al*
U.S. Application No.: 10/569,875
PCT No.: PCT/JP2003/013734
Int. Filing Date: 01 December 2005
Priority Date: 01 December 2004
Docket No.: FUJI 22.417(100794-01054)
For: CONNECTION DESTINATION BASE STATION DETERMINATION DEVICE

DECISION

This is a decision on the "Request for Reconsideration of Petition Under 37 CFR § 1.10" filed 19 May 2008.

BACKGROUND

On 14 May 2008, a decision dismissing applicants' petition under 37 CFR 1.10(e) was mailed. Applicants were given two months to respond.

On 19 May 2008, applicants filed the subject petition which was accompanied by, *inter alia*, a copy of the Customer Copy of Express Mail label No. EV732744477US.

DISCUSSION

In the prior decision, applicants were requested to provide a copy of the Customer Copy of Express Mail label No. EV732744477US to complete their requirements for a grantable petition under 37 CFR 1.10(e).

In the subject response, applicants submitted the copy of Customer Copy of Express Mail label No. EV732744477US as requested. A review of the Express Mail label No. EV732744477US shows that the "Date Accepted" is recorded as "8 25 06." This corroborates applicants claim that a response to the Form PCT/DO/EO/905 was originally submitted on 25 August 2006.

All requirements of 37 CFR 1.10(e) are now satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.10(e) is **GRANTED**.

10/569,875

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 03 April 2008 is hereby **VACATED**.

The declaration originally filed on 25 August 2006 is in compliance with 37 CFR 1.497(a) and (b). The surcharge fee of $130.00 has been charged to Deposit Account No. 50-1290 as requested.

This application is being forwarded to the Office of Initial Patent Processing for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

0 4 DEC 2006

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Peter F. Corless
Edwards Angell Palmer & Dodge, LLP
P.O. Box 55874
Boston, MA 02205

In re Application of	:	
ZINK, et al.	:	DECISION ON PETITION
Application No.: 10/569,887	:	
PCT No.: PCT/US04/31747	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 27 September 2004	:	
Priority Date: 26 September 2003	:	
Atty. Docket No.: 62141 (71699)	:	
For: SUPPRESSION OF HIV REPLICATION AND	:	
PREVENTION AND TREATMENT OF HIV	:	

The petition to revive under 37 CFR 1.137(b) filed 17 November 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for the preparation and mailing of a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the 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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www.uspto.gov

23 FEB 2007

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

In re Application of	:	DECISION ON
YI-TAO et al	:	
PCT No.: PCT/CA2004/001654	:	PETITION UNDER
Application No.: 10/569,901	:	
Int. Filing Date: 09 September 2004	:	
Priority Date: 09 September 2003	:	37 CFR 1.47(a)
Attorney's Docket No.: SMAR-051	:	
For: PHOTOCURRENT GENERATOR	:	

This is in response to the "PETITION UNDER 37 CFR 1.47(a)" filed on 04 December 2006. The $200.00 petition fee has not been paid in full.

BACKGROUND

On 09 September 2004, applicants filed international application PCT/CA2004/001654, which claimed priority of an earlier U.S. application filed 09 September 2003.

On 27 February 2006, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee. No executed oath or declaration from the inventors accompanied the Transmittal Letter.

On 07 October 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date" must be submitted within two months from 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 04 December 2006, petitioner filed the present petition accompanied, inter alia, an executed Declaration without the signature of three of the four inventors, i.e., without the signatures of Yi-TAO LONG.

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 (2)- (4) of 37 CFR 1.47(a). However, item (1) ha not been satisfied.

Regarding item (1), petitioner has not completely paid the petition fee of $200 under 37 CFR 1.17(g) because only $130.00 has been submitted.

Regarding item (2), in this case, Lorraine D. Barker has sufficiently demonstrated that a complete copy of the application papers were presented to the non-signing inventor, Yi-Tao Long, via an email on August 1, 2006, and that Mr. Yi-Tao refuses to sign the required papers.

Regarding item (3), petitioner has provided a statement of the last known address of the missing inventor.

Regarding item (4), a review of the petition and its accompanied papers does show an executed declaration has been submitted, and that joint inventors Sutherland, Kraatz and Lee sign on their behalf and on the behalf of Yi-Tao Long

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

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

2 5 MAY 2007

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

In re Application of	:	DECISION ON
YI-TAO et al	:	
PCT No.: PCT/CA2004/001654	:	PETITION UNDER
Application No.: 10/569,901	:	
Int. Filing Date: 09 September 2004	:	
Priority Date: 09 September 2003	:	37 CFR 1.47(a)
Attorney's Docket No.: SMAR-051	:	
For: PHOTOCURRENT GENERATOR	:	

This is in response to the "RENEWED PETITION UNDER 37 C.F.R. §1.47(a)" filed on 12 March 2007.

BACKGROUND

In a decision from this Office on 23 February 2007, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated that item (1) had not been satisfied.

On 12 March 2007, petitioner submitted a "Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 23 February 2007 with respect to accepting the above application with the complete petition fee of $200.00, which the USPTO has been directed to charge petitioner's Deposit Account No. 50-0815.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

The renewed petition of 12 March 2007 has satisfied item 1 under 37 CFR 1.47(a) because the petition fee of $200.00 has been paid.

Petitioner has now satisfied items (1), (2), (3), and (4) under 37 CFR 1.47(a), thus completing the requirements under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **04 December 2006.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-6312
Facsimile: (571) 273-0459

2 5 MAY 2007

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P.O BOX 1450
ALEXANDRIA, VA 22313-1450
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Yitao Long
Department of Bioengineering
Berkeley Sensor & Actuator Center
University of California, Berkeley
497 Cory Hall, Berkeley, VCA 94720-1774

In re Application of	:	DECISION ON
YI-TAO et al	:	
PCT No.: PCT/CA2004/001654	:	PETITION UNDER
Application No.: 10/569,901	:	
Int. Filing Date: 09 September 2004	:	
Priority Date: 09 September 2003	:	37 CFR 1.47(a)
Attorney's Docket No.: SMAR-051	:	
For: PHOTOCURRENT GENERATOR	:	

Dear Mr. Long:

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.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:
Michael G. Agadjanyan et al	:
Serial No.: 10/569,907	: SUSPENSION OF ACTION
Filed: February 27, 2006	:
Attorney Docket No.: 4610-0104PUS1	:

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed August 28, 2007.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicants' petition requests suspension of action on the basis that they "are awaiting the results from additional experiments." Applicants give no further explanation as to what results are awaited, what experiments are being conducted and their purpose and their expected completion date. It is also unclear as to the necessity of such experimental data since no rejections over prior art have been made for which experimental data in the form of unexpected results may be needed to overcome a rejection. Applicants have provided a "reason", but have not provided sufficient information to enable the Office to determine if the reason is good or sufficient.

In view of the above reasons the petition is **DENIED**.

The application will be forwarded to the examiner for further consideration.

Should there be any questions with respect to this action, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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Alexandria, Virginia 22313-1450
www.uspto.gov

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

Mail Date: 04/21/2010

Applicant	: Maher I. Boulos	: DECISION ON REQUEST FOR
Patent Number	: 7572315	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/569,916	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **315** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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NIXON PEABODY LLP - PATENT GROUP
1100 CLINTON SQUARE
ROCHESTER, NY 14604

Mail Date: 04/21/2010

Applicant	: Henry Nicholas Jabbour	: DECISION ON REQUEST FOR
Patent Number	: 7615210	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/569,920	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/31/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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NIXON PEABODY LLP - PATENT GROUP
1100 CLINTON SQUARE
ROCHESTER, NY 14604

Mail Date: 05/18/2010

Applicant : Henry Nicholas Jabbour
Patent Number : 7615210
Issue Date : 11/10/2009
Application No : 10/569,920
Filed : 08/31/2006

: 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 **24** 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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11 JUL 2008

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INDIANAPOLIS OFFICE 27879
BRINKS HOFER GILSON & LIONE
ONE INDIANA SQUARE, SUITE 1600
INDIANAPOLIS IN 46204-2033

In re Application of DUCKSTEIN et al. Serial No.: 10/569,933 PCT No.: PCT/DE04/01870 Int. Filing Date: 24 August 2004 Priority Date: 27 August 2003 Attorney's Docket No.: 050723US For: METHOD OF CONTROLLING THE DISPLAY OF VARIOUS DATA IN A VEHICLE AND OPTO-ACOUSTIC INFORMATION UNIT	DECISION ON PETITION UNDER 37 CFR 1.137(a)

The petition to revive under 37 CFR 1.137(a) filed in the United States Patent and Trademark Office on 15 May 2008 in the above-captioned application.

BACKGROUND

On 27 February 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 31 August 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 11 January 2008, a Notification of Abandonment was mailed indicating that the application was abandoned as applicant failed to respond to the Notification of Missing Requirements.

On 15 May 2008, applicant filed a petition to revive the abandoned international application under 37 CFR 1.137(a) accompanied by the statements of Margit Rudolph and A. James Richardson.

DISCUSSION

Under 37 CFR 1.137(a), a petition requesting that the application be revived on the grounds of unavoidable delay requires (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 Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable

petition was unavoidable; and (4) a terminal disclaimer pursuant to 37 CFR 1.137(c).[1]

Regarding Item (1), the proper response, the executed declaration, was provided. Item (1) is satisfied. The petition fee was paid, satisfying Item (2).

Concerning item (3), Petitioner provided statements regarding the facts underlying applicant's claim of unavoidable delay. Margit Rudolph, the German agent representing the applicant, states that she sent a letter to U.S. patent attorney Karl Hormann on 17 November 2007 "instructing him to assume representation for the national phase in the US of the international application PCT/DE2004/001870". Thereafter on 21 March 2006, Ms. Rudolph received a letter from Mr. Hormann indicating that application number 10/569,933 had been assigned. Ms. Rudolph sent patent counsel several communications including an executed Combined Declaration and Power of Attorney. Since 04 August 2006, Ms. Rudolph has not received any further mail from Mr. Hormann. Several German language letters to and from Mr. Hormann were attached to the statement as exhibits. These letters were not translated.

Patent Attorney A. James Richardson's statement indicates that as of 25 March 2008, he attempted to access the USPTO file via private pair without success until 15 April 2008. Since that date, he has been working to gather declarations and documents relevant to a showing that the entire delay in filing the required reply to the Notification of Missing Requirements was unavoidable. On 06 May 2008, he attempted to contact Mr. Hormann. To date, Mr. Hormann has not replied.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.
>
> *In re Mattullath*, 38 App. D.C. 497, 514-15 (1912)(quoting *Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also *Winkler v. Ladd*, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963), *aff'd*, 143 USPQ 172 (D.C. Cir. 1963); *Ex parte Henrich*, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." *Haines v. Quigg*, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

See MPEP 711.03 II.C.2. Unavoidable Delay.

Petitioner attempts to demonstrate that the cause of the delay was due to lack of communication from the patent attorney representing applicant in this application. Mr. Hormann is a patent practitioner with a USPTO registration number. His signature on the transmittal letter filed on 27 February 2006 constituted a representation that he was authorized to represent

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A terminal disclaimer is not required in this application since it was filed after 08 June 1995.

applicant in this matter. *See* 37 CFR §§1.31 and 1.34. The action or inaction of applicant's representative is binding on the applicant. Petitioner has not provided sufficient evidence at this time to conclude that the abandonment of the U.S. national stage application was unavoidable. The burden of proof to establish that the delay from the due date for the reply until the filing of a grantable petition was unavoidable rests on the applicant. MPEP §711.03(c) II F. Thus, the petition to revive under 37 CFR 1.137(a) for unavoidable delay is dismissed without prejudice.

CONCLUSION

For the reasons above, the petition to revive under 37 CFR 1.137(a) is **DISMISSED without prejudice**.

The application remains **ABANDONED**.

Any request for reconsideration of the merits of this petition must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(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.

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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26 SEP 2008

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INDIANAPOLIS OFFICE 27879
BRINKS HOFER GILSON & LIONE
ONE INDIANA SQUARE, SUITE 1600
INDIANAPOLIS IN 46204-2033

In re Application of DUCKSTEIN et al. Serial No.: 10/569,933 PCT No.: PCT/DE04/01870 Int. Filing Date: 24 August 2004 Priority Date: 27 August 2003 Attorney's Docket No.: 050723US For: METHOD OF CONTROLLING THE DISPLAY OF VARIOUS DATA IN A VEHICLE AND OPTO-ACOUSTIC INFORMATION UNIT	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 23 July 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required executed declaration from the due date for that submission until the filing of this petition was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

A review of the application file reveals that the executed declaration has now been provided. The required petition fee of $1540 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 **15 May 2008.**

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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Alexandria, VA 22313-1450
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31 AUG 2007

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

In re Application of KALB, Roland Application No.: 10/569,934 PCT No.: PCT/EP04/09296 Int. Filing Date: 19 August 2004 Priority Date: 27 August 2003 Attorney's Docket No.: P345325 For: Method For Producing Ionic Liquids, Ionic Solids Or Mixtures Thereof	:	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicants' "Request To Withdraw Notification of Abandonment," filed 18 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 08 May 2007, be withdrawn.

BACKGROUND

On 19 August 2004, applicant filed international application PCT/EP04/09296, claiming a priority date of 27 August 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 February 2006.

On 27 February 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 28 August 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a translation of the application in the English language and the surcharge for late filing of the English translation are required. The Notification set a response time of two months from the mailing date of the Notification with the ability to purchase an extension of time pursuant to 37 CFR 1.136(a).

On 10 October 2006, applicant filed a "Response To Notification Of Missing Requirements" including, a translation of the application in the English language and, the surcharge for late filing of the English translation.

On 08 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 28 August 2006, within the prescribed time limit.

On 18 May 2007, applicant submitted the instant "Request To Withdraw Notification of Abandonment," including a copy of the postcard receipt that itemizes an "English language trans[lation] of application" and bears a stamped date of 10 October 2006.

DISCUSSION

Applicant has provided sufficient evidence to establish that on 10 October 2006 applicant filed a proper response to the Notification of Missing Requirements (Form PCT/DO/EO/905), mailed 28 August 2006. The evidence is in the form of the copy of the postcard receipt that itemizes an "English language trans[lation] of application" and bears a stamped date of 10 October 2006, and identifies the above-captioned application number and docket number.

CONCLUSION

For the reasons stated above, the petition under 37 C.F.R. 1.181 is **GRANTED.**

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 08 May 2007 is **VACATED.**

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

The application will be given a date of 10 October 2006 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Stefan Staicovici
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-1208
Facsimile: (571) 273-0459

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0 8 AUG 2008

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of:	:	
FUJIKAWA, Takumi, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/569,944	:	CHANGE INVENTOR'S NAME
PCT No.: PCT/JP2004/012668	:	(37 CFR 1.182)
International Filing Date: 26 August 2004	:	
Priority Date: 29 August 2003	:	
Attorney Docket No.: 0757-0312PUS1	:	
For: RADAR APPARATUS OR LIKE	:	

This decision is issued in response to applicants' "Response To Notification Of Missing Requirements" filed 18 July 2008, treated herein as a petition under 37 CFR 1.182 to change the name of record for inventor Sae SHIBATA to Sae TAKEMOTO. Deposit Account No. 02-2448 will be charged the required $400 petition fee.

BACKGROUND

On 26 August 2004, applicants filed international application PCT/JP2004/012668. The application claimed a priority date of 29 August 2003, and it designated the United States. On 10 March 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., 28 February 2006. The published international application identified the third inventor as Sae SHIBATA.

On 28 February 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 third inventor set forth on the declaration was Sae TAKEMOTO.

On 12 May 2008, 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. The Notification indicated that the declaration filed on 28 February 2006 was defective because the name of the third inventor on the declaration was different from this inventor's name on the published international application.

On 18 July 2008, applicants filed the "Response To Notification Of Missing Requirements" considered herein (with required extension fee). The response is treated as a

petition under 37 CFR 1.182 to change the name of record for inventor Sae SHIBATA to Sae TAKEMOTO.

DISCUSSSION

Section 1893.01(e) of the Manual Of Patent Examining Procedure ("MPEP") states the following:

> Where ... the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name. See MPEP § 605.04(c). However, where the discrepancy between the name of the inventor indicated in the international application during the international phase and the name of the inventor as it appears in the oath or declaration submitted under 37 CFR 1.497 is the result of a typographical or transliteration error, then a petition under 37 CFR 1.182 will not be required. In such case, the Office should simply be notified of the error.

In the present application, the discrepancy between the third inventor's name as listed in the international application (SHIBATA) and in the filed declaration (TAKEMOTO) is more than a "typographical or transliteration error." Accordingly, in order to correct the name of record for this inventor, a grantable petition under 37 CFR 1.182 is required.

Section 605.04(c) of the MPEP, referred to above, sets forth the requirements for a petition under 37 CFR 1.182 to correct an inventor's name. According to the MPEP, such a petition "must include an appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order."

Applicants' 18 July 2008 submission included the authorization to charge Deposit Account No. 02-2448 for any required fees. Based on this authorization, Deposit Account No. 02-2448 will be charged the required $400 petition fee. Applicants' submission also includes a "Statement By Inventor" in which the inventor states that her name was changed as a result of marriage from Sae SHIBATA to Sae TAKEMOTO. These materials satisfy the requirements for a grantable petition under 37 CFR 1.182 to change the name of record for this inventor from Sae SHIBATA to Sae TAKEMOTO.

Based on the correction of the name of the third inventor, the declaration filed on 28 February 2006 is no longer defective.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of record for inventor Sae SHIBATA to Sae TAKEMOTO is **GRANTED**.

Based on this correction, the declaration filed 28 February 2006 is acceptable in compliance with 37 CFR 1.497.

Deposit Account No. 02-2448 will be charged the required $400 petition fee.

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 correcting USPTO records to indicate that the name of record for the second inventor is Dirk GANDOLPH. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 28 February 2006.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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PO BOX 747
FALLS CHURCH, VA 22040-0747

COPY MAILED
DEC 11 2008

Applicant: Melcer
Appl. No.: 10/569,949
International Filing Date: August 25, 2004
Title: NOVEL ARTIFICIAL NUCLEIC ACIDS OF N-O BOND CROSSLINKAGE TYPE
Attorney Docket No.: 4367-0112PUS1
Pub. No.: US 2007-0167387 A1
Pub. Date: July 19, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 19, 2007, for the above-identified application.

The request is DISMISSED as moot.

Since the application has already issued as U.S. Patent No. 7,427,672 on September 23, 2008, the request is deemed moot.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/569,961		Masao Nonaka	20060225A

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

DATE MAILED: October 26, 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 October 24, 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:

- ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
- ☑ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
- ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

0 8 OCT 2008

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CLARK & BRODY
1090 VERMONT AVENUE, NW
SUITE 250
WASHINGTON DC 20005

In re Application of	:	
SHIMODA, Hiroshi et al.	:	
Application No.: 10/569,970	:	DECISION
PCT No.: PCT/JP2004/014622	:	
Int. Filing Date: 05 October 2004	:	ON PETITION UNDER
Priority Date: 06 October 2003	:	
Docket No.: 12093-0006	:	37 CFR 1.47(a)
For: DIETETIC COMPOSITION	:	

This is a decision on applicants' Petition Under 37 CFR 1.47(b), filed in the United States Patent and Trademark Office (USPTO) on 06 August 2008. As only one joint inventor is not cooperating, this petition has been treated under 37 CFR 1.47(a).

BACKGROUND

On 09 May 2008, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an English translation, an oath or declaration in compliance with 37 CFR 1.497(a)-(b), the processing fee for late filing of the English translation and the surcharge for late filing of the search fee, examination fee or oath or declaration were required.

On 06 August 2008, applicants filed a petition under 37 CFR 1.47(a) accompanied by a declaration of the inventors and an English translation of the application.

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 balance of the $200 petition fee will be charged to deposit account no. 50-1088, as authorized. Applicant states the last known address of inventor Emi Yamada as Corpo Kazu 1-1; Kuroda-kitano-kuro 202 Kisogawa-cho, Ichinomiya-shi, Aichi 493-0001; Japan.

Item (2) has not been satisfied. Applicants must establish that the inventor has refused to sign the declaration after presentation with a complete copy of the application papers. The first

hand statement says the inventor was sent a copy of the declaration, but a copy has not been included with this submission. As the declaration signed by the inventors is defective for failure to list Ms. Yamada, the Office wants copies of the papers sent to Ms. Yamada. Failure to execute a defective oath or declaration is reasonable. Further, applicant states that Japan's privacy laws do not make it possible to locate a current home address for the inventor. Are internet search engines not available. If so, such should be stated and what efforts were made to locate a current address. If internet searches are available, they should be conducted and likely addresses contacted.

Item (4) has not been satisfied. The declaration does not list all of the inventors and their citizenships. See 37 CFR 1.497. Moreover, citizenships do not normally include a city. Additionally, a change of name with the Office for the non-signing inventor requires a petition under 37 CFR 1.182 as set forth in MPEP 605.04(c). Without the cooperation of the inventor or a copy of the court document which brought about the name change, a name change from "Yamada" to "Seki" will not be possible.

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

1 2 FEB 2009

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Washington, D.C. 20231
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CLARK & BRODY
1090 VERMONT AVENUE, NW
SUITE 250
WASHINGTON DC 20005

In re Application of	:	
SHIMODA, et al.	:	DECISION ON
Serial No.: 10/569,970	:	
PCT No.: PCT/JP2004/014622	:	RENEWED PETITION
Int. Filing Date: 05 October 2004	:	
Priority Date: 06 October 2003	:	UNDER 37 CFR 1.47(a)
Atty Docket No.: 12093-0006	:	
For: DIETETIC COMPOSITION	:	

This decision is in response to applicant's "RENEWED PETITION UNDER 37 C.F.R. 1.47" filed 23 December 2008 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor Emi Yamada.

BACKGROUND

On 08 October 2008, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 23 December 2008, 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. The response is timely filed.

DISCUSSION

As detailed in the decision mailed 08 October 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 and 3.

With the filing of the present renewed petition and accompanying exhibits applicant has satisfied the remaining two items and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 05 October 2004 under 35 U.S.C. 363, and will be given a date of **23 December 2008** 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

12 FEB 2009

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Mrs. Emi Yamada
Corpo Kazu 1-1
Kuroda-kitano-kuro
202 Kisogawa-cho, Ichinomiya-shi
Aichi 493-0001
JAPAN

In re Application of
SHIMODA, et al.
Serial No.: 10/569,970
PCT No.: PCT/JP2004/014622
Int. Filing Date: 05 October 2004
Priority Date: 06 October 2003
Atty Docket No.: 12093-0006
For: DIETETIC COMPOSITION

Dear Mrs. Yamada:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, the law firm of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

Christopher W. Brody
Clark & Brody
1090 Vermont Ave., N.W., Suite 250
Washington, DC 20005
UNITED STATES OF AMERICA

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

Mail Date: 04/27/2010

Applicant	: Kenji Kawabata	: DECISION ON REQUEST FOR
Patent Number	: 7595130	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/569,971	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **668** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

PETER K. TRZNA
P.O. BOX 7131
CHICAGO, IL 60680-7131

In re Application of

Thomas F. CONROY, et al
Application No. 10/569,987
Filed: November 16, 2006
Attorney Docket No. MCEA-P4-04

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 26, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration statement signed by the applicant Thomas F. Conroy. Accordingly, the above-identified application has been accorded "special" status.

This application is being referred back to the Office of Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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PETER K. TRZYNA
P.O. BOX 7131
CHICAGO, IL 60680-7131

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OFFICE OF PETITIONS

In re Application of

Thomas F. CONROY, et al
Application No. 10/569,987
Filed: November 16, 2006
Attorney Docket No. MCEA-PA-04

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 26, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is DISMISSED as MOOT in view of the Request for Rescission of Special Status filed on July 10, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

This application is being referred to the Office Initial Patent Examination for processing. This application will be accorded "special" status when pre-examination processing is done.

Diane Goodwyn
Petitions Examiner
Office of Petitions

13 NOV 2006

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PEARNE & GORDON LLP
1801 EAST 9TH SRTEET
SUITE 1200
CLEVELAND OH 44114-3108

In re Application of	:	
YAMADA et al.	:	
Application No.: 10/569,989	:	DECISION
PCT No.: PCT/JP2004/12863	:	
Int. Filing Date: 30 August 2004	:	
Priority Date: 01 September 2003	:	
Attorney Docket No.: 39808	:	
For: ELECTRONIC DEVICE AND METHOD	:	
FOR OUTPUTTING RESPONSE IN	:	
ELECTRONIC DEVICE	:	

This decision is in response to applicant's "REQUEST FOR A REFUND" filed in the United States Patent and Trademark Office (USPTO) on 20 October 2006.

BACKGROUND

On 30 August 2004, applicant filed international application PCT/JP2004/012863, which designated the U.S. and claimed a priority date of 01 September 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 10 March 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 01 March 2006.

On 28 February 2006, applicant filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, a purported English translation of the international application, and a declaration of inventors.

On 07 April 2006, applicant filed replacement drawings.

On 03 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495, according the application a 35 U.S.C. 371 date of 07 April 2006.

On 20 October 2006, applicant filed the instant "REQUEST FOR A REFUND".

DISCUSSION

The request for refund requests a refund of the processing fee under 37 CFR 1.492(i) for providing the translation later than thirty months from the priority date. Applicant in effect

argues that the drawing sheets filed 28 February 2006 contained a proper translation of the drawings and the drawing sheets filed 07 April 2006 did not correct an improper translation.

The translation filed 28 February 2006 is not an accurate translation of the international application as filed. The translation of text matter in a drawing must be in the form of a copy of the original drawing with the translation pasted on the original text matter or in the form of a drawing executed anew. PCT Rules 76.5 and 49.5(d). The translation filed 28 February 2006 still contains foreign text in the drawings. Thus, the translation is defective. An accurate translation of the international application as filed is required in order to comply with 35 U.S.C. 371.

CONCLUSION

The request for refund under 37 CFR 1.26 is **DISMISSED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,999	12/06/2006	Chandra Has Khanduri	RLL-427US	3308

7590 02/12/2008

RANBAXY INC.
600 COLLEGE ROAD EAST
SUITE 2100
PRINCETON, NJ 08540

EXAMINER
MORRIS, PATRICIA L

ART UNIT	PAPER NUMBER
1625	

MAIL DATE	DELIVERY MODE
02/12/2008	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.

Tammy J. Kowalczyk

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/570,013	02/28/2006	Kei Yoshida	PREZP102US	5278

23623 7590 10/22/2009
TUROCY & WATSON, LLP
127 Public Square
57th Floor, Key Tower
CLEVELAND, OH 44114

EXAMINER
KUMAR, SHAILENDRA

ART UNIT	PAPER NUMBER
1621	

NOTIFICATION DATE	DELIVERY MODE
10/22/2009	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):

docket1@thepatentattorneys.com
hholmes@thepatentattorneys.com
lpasterchek@thepatentattorneys.com

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OCT 22 2009

Greg Turocy
AMIN, TUROCY & CALVIN, LLP
127 Public Square
57th floor, Key Tower
Cleveland, OH 44114

In re Application of	:
Yoshida et al.	:
Serial No.: 10/570,013	:Decision on Petition
Filed: 28 February 2006	:
Attorney Docket No.: PREZP102US	:

This letter is in response to the petition filed under 37 C.F.R. § 1.144 filed on May 19, 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 25 May 2008, the examiner divided claim 1-21 into 8 Groups as follows

Group I, claims 1-8, 17, and 18, drawn to compounds;
Group II, claim 9, drawn to compounds;
Group III, claim 10, drawn to compounds;
Group IV, claim 11, drawn to compounds;
Group V, claims 12-14, drawn to process of making compounds;
Group VI, claim 15, drawn to compounds;
Group VII, claim 16, drawn to compounds;
Group VIII, claims 19-21, drawn to a method of using compounds.

As evidence of lack of special technical feature which makes a contribution over the prior art, the examiner referred to the search report of PCT/JP04/012416, which cited references showing that

the genus of claim 1, as it was pending in the PCT application, is not novel. The examiner also required applicants to elect a species of compound from the examples of the specification.

On 25 April 2008, applicants field a bona fide response which elected Species I with traverse.

On 22 July 2008, the Examiner mailed applicants a Notice of Non-Responsive Amendment, even though no amendment had been filed.

On 11 September 2008, applicants elected, with traverse, Group I and the compound 130. Applicants indicated that claims 1-14 and 16-21 read upon the elected species.

On 19 December 2008, the examiner mailed to applicants a non-final Office action. The examiner addressed the traversal and made the requirements final. Claims 9-16 and 19-21 were withdrawn as being directed to non-elected invention. Claims 1-8 and 17-18 were examined "to the extent that they read on the elected species and closely related compounds encompassing the elected species." The examiner then stated that "the elected species is free of the prior art. Claims 1-8 are objected to as containing subject matter that is drawn to the non-elected subject matter, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims encompassing the elected species and closely related species."

On 24 February 2009, applicants filed an Information Disclosure Statement.

On 19 May 2009, applicant submitted the petition currently under review.

DISCUSSION

The petition and file history have been carefully considered.

I. Concerning Lack of Unity Amongst Groups I, II, III, IV. VI and VII:

The examiner has taken the position that the compounds of Formulas 1-4, 8 and 9 lack unity of invention, however, this is not convincing because no specific prior art was identified and applied to the product claims as pending in this application. For this reason, unity is assumed to be present amongst the product claims.

II. Concerning the lack of unity between product (I, II, III, IV, VI and VII) and process (V and VIII) inventions:

Groups 5 and 8 are methods of making and using the compounds of Group I. Because no prior art has been cited on the elected invention of Group I, the method of making and using the elected compound necessarily share a same or corresponding special technical feature with Group I.

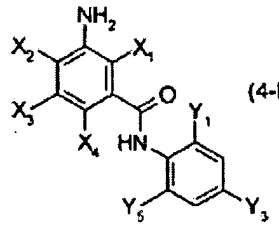
III. Concerning the requirement to elect a species for examination:

In order to require an election of species amongst embodiments of a Markush claim in a national stage filing of a PCT application, the examiner should have followed the guidance provided by the International Search and Preliminary Examination Guidelines published January 2004, relevant parts of which are provided below:

> The situation involving the so-called Markush practice wherein a single claim defines alternatives (chemical or non-chemical) is also governed by PCT Rule 13.2. In this special situation, the requirement of a technical interrelationship and the same or corresponding special technical features as defined in PCT Rule 13.2, shall be considered to be met when the alternatives are of a similar nature.
>
> When the Markush grouping is for alternatives of chemical compounds, they shall be regarded as being of a similar nature where the following criteria are fulfilled:
>
> (A) All alternatives have a common property or activity; and
>
> (B)(1) A common structure is present, i.e., a significant structural element is shared by all of the alternatives; or
>
> (B)(2) In cases where the common structure cannot be the unifying criteria, all alternatives belong to a recognized class of chemical compounds in the art to which the invention pertains.
>
> In paragraph (B)(1), above, the words "significant structural element is shared by all of the alternatives" refer to cases where the compounds share a common chemical structure which occupies a large portion of their structures, or in case the compounds have in common only a small portion of their structures, the commonly shared structure constitutes a structurally distinctive portion in view of existing prior art, and the common structure is essential to the common property or activity. The structural element may be a single component or a combination of individual components linked together.
>
> In paragraph (B)(2), above, the words "recognized class of chemical compounds" mean that there is an expectation from the knowledge in the art that members of the class will behave in the same way in the context of the claimed invention. In other words, each member could be substituted one for the other, with the expectation that the same intended result would be achieved.

In this instance, the examiner has not established that the species are not of a similar nature.

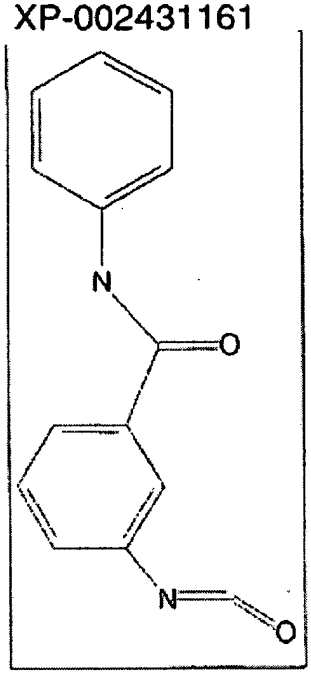
Here, the Compounds of Formulas 1, 2, 3, 4, 8 and 9 will be analyzed for unity of invention. All the compounds require a benzamide ring. This is a not a substantial structural feature because it is small portion of the molecule. The variables attached to the benzamide rings may be quite a bit larger than the benzamide ring. See for example, taken in view of the many diverse and large structures which could b attached to the benzamide ring of Compound 4-B from page 167 of the specification:



(4-B)

Moreover, a benzamide ring portion of the molecule does not make a contribution over the prior art. Prior art reference, XP-0002431161, shows Beilstein registry number 2733469 for a compound that contains a benzamide ring.

XP-002431161



For these reasons, product does not share a general inventive concept and the election of species requirement was justified.

IV. Concerning the extent of examination required for a Markush claim:

The examiner has limited the scope of the claims under examination to the elected species and closely related species. This is problematic for three reasons.

First, it is unclear which closely related species has or have been examined. The Office action only addresses the merits of the elected species. There is no rejection or, conversely, indication of allowability for any closely related species. The "closely related species" are not identified.

Second, the examiner objects to claims for reciting non-elected species- which would presumably include both the closely related species which apparently have been examined.

Third, 35 USC 121 permits the Office to require an election of species for prosecution on the merits, to which the claims shall be restricted if no generic claim is finally held to be allowable. Maintaining a restriction requirement amongst species is only proper if it is be predicated upon a rejection under 35 USC 101, 102, 103 or 112 1st paragraph. In this instance, because there are no outstanding rejections, the examiner should have followed practice set forth in MPEP 803.02 and examined a second and/or subsequence species in order to determine the patentability of the markush claim.

However, this was not done. In the non-final Office action mailed December 19, 2008, the examiner indicated that the elected species was free of the prior art. MPEP § 803.02 states in part:

> "...should the examiner determine that the elected species is allowable, the examination of the Markush-type claim will be extended. If prior art is then found that anticipates or renders obvious the Markush-type claim with respect to a *nonelected species*, the Markush-type claim shall be rejected and claims to the nonelected species held withdrawn from further consideration. The prior art search, however, will not be extended unnecessarily to cover all nonelected species."

V. Concerning the objection to the claims for containing non-elected subject matter or for containing allowable subject matter but depending upon a non-allowable claim:

Finally, it is noted that the objection of claims 1-8, 17, and 18 for reciting non-elected subject matter is improper. The claims are written using Markush format. In view of the examination practice for Markush claims (MPEP 803.02), Applicants are entitled to retain non-elected subject matter recited in the alternative of a Markush claim. Also, in view of linking claim practice (MPEP 809) and rejoinder practice (MPEP 821.04), applicants are entitled to retain linked inventions which are encompassed by a linking claim and species as encompassed by a generic claim. Moreover, the requirement to amendment claim 1 to include all the limitations of the independent and intervening claims is problematic, given that claim 1 *is* an independent claim.

VI. Concerning the Notice of Non-Responsive Amendment mailed 22 July 2008:

Because Applicants original election filed 25 April 2008 was a bona fide response and because there was no amendment accompanying the election, the paper mailed on 22 July 2008 should have been entered into the file as a miscellaneous communication instead of a Notice of Non-Responsive Amendment.

DECISION

The petition is **GRANTED-IN-PART** for the reasons set forth above.

The lack of unity determination between Groups I-VIII is withdrawn.

Should the examiner find prior art on a second or subsequence species, per MPEP 803.02, the election of species requirement would be maintained.

The Office action of 19 December 2009 is withdrawn as incomplete, because there is no rejection under 35 USC 101, 102, 103 or 112 over the elected species, nor is there any rejection under 35 USC 101, 102, 103 or 112 over a second or subsequent embodiment in Markush claim, nor are claims encompassing the elected invention indicated as in condition for allowance. Moreover, the methods of making and using the elected product have not been examined.

The objection of Claims 1-8 and 17-18 for reciting non-elected subject matter is withdrawn.

Applicants response filed 25 April 2008 was bone fide. The Notice of Non-Responsive Amendment mailed 22 July 2008 has been re-indexed in PALM as a Miscellaneous Letter, and it should not be used to negatively impact applicants Patent Term Adjustment, should this application go on to issue.

The application will be forwarded to the examiner for consideration of the papers filed 24 February 2009 and 19 May 2009 preparation of a supplemental non-final Office action consistent with this decision, in which the claims 11-21 will be examined, per guidance in MPEP 803.02 and 821.04(b).

Any request for reconsideration should be filed within TWO (2) months of the mail date of this decision.

Should there be any questions about this decision, please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0512 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Remy Yucel
Director, Technology Center 1600

16 MAR 2006

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Alexandria, VA 22313-1450
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Glenn Wakefield
1416 East Carmen Street
Tempe, Arizona 85283

In re Application of WAKEFIELD, Glenn Application No.: 10/570,022 PCT No.: PCT/US04/09471 Int. Filing Date: 29 March 2004 Priority Date: 03 April 2003 Attorney Docket No.: None For: MAGNETICALLY PROPELLED CAPSULE ENDOSCOPY	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 24 February 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the 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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Thomas W Gorman
E I Du Pont De Nemours and Company
Legal Patent Records Center
4417 Lancaster Pike
Wilmington, DE 19805

Mail Date: 04/21/2010

Applicant	: Biswajit Choudhury	: DECISION ON REQUEST FOR
Patent Number	: 7563532	: RECALCULATION of PATENT
Issue Date	: 07/21/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/570,024	: OF WYETH
Filed	: 02/28/2006	:
		:

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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MAY 24 2010
OFFICE OF PETITIONS

Paper No.

LEVINE & MANDELBAUM
222 Bloomingdale Road
Suite 203
WHITE PLAINS NY 10605

In re Application of	:	
Cho	:	
Application No. 10/570,041	:	
Patent No.: 7,443,135	:	DECISION ON PETITION
Filed: February 9, 2006	:	PURSUANT TO
Issued: October 28, 2008	:	37 C.F.R. § 1.28(c)
Attorney Docket No.: JISU0160US	:	
Title: NO POINT OF CONTACT	:	
CHARGING SYSTEM	:	
	:	

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on February 16, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. § 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.

Petitioner has identified the particular type of fee that was erroneously paid as a small entity, when the small entity fee was actually paid, the small entity fee that was actually paid, the deficiency owed amount, and the total deficiency payment owed.

The deficiency payment of $1195 is acknowledged.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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DIW Jun-10

JUDY JARECKI-BLACK; PH.D., J.D.
3239 SATELLITE BLVD. 3RD FLOOR
DULUTH GA 30096

MAILED

JUN 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Chou et al.	:	DECISION ON PETITION
Application Number: 10/570042	:	
Filing Date: 09/29/2006	:	
Attorney Docket Number: MER 05-3175	:	

This is a decision on the petition filed on April 2, 2010, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on October 8, 2009, for failure to timely file a response to the non-final Office action mailed on July 7, 2009, which set a three (3)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on February 22, 2009.

Receipt of the amendment filed on April 2, 2010, is acknowledged.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application is referred to Technology Center Art Unit 1628 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/570,077	09/05/2008	Dharam Pal Gosain	09792909-6642	3480

7590 08/21/2009
SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, WILLIS TOWER
CHICAGO, IL 60606-1080

EXAMINER
RAABE, CHRISTOPHER M

ART UNIT	PAPER NUMBER
2879	

MAIL DATE	DELIVERY MODE
08/21/2009	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/570,077	09/05/2008	Dharam Pal Gosain	09792909-6642	3480

7590 08/21/2009
SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, WILLIS TOWER
CHICAGO, IL 60606-1080

EXAMINER
RAABE, CHRISTOPHER M

ART UNIT	PAPER NUMBER
2879	

MAIL DATE	DELIVERY MODE
08/21/2009	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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GRANT R CLAYTON
CLAYTON HOWARTH & CANNON, PC
P O BOX 1909
SANDY UT 84091-1909

mailed 3/22/07

In re Application of: COTUTSCA, PETER Serial No.: 10/570,078 Filed: Feb. 28, 2006 Docket: T10436PCTUS Title: UTILITY HOLDER FOR HEADWEAR	DECISION ON REQUEST FOR 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 Aug. 9, 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; b) a statement that a pre-examination search was made on the USPTO database in Class 2, subclasses 13, 195.1, 209.13 and 918 and Class 351, subclass 155;c) a copy of each reference; and e) a detailed discussion of the references.

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), (c) and (d) are considered to have been met. However, the petition does not meet the requirements of MPEP § 708.02(VIII)(b) and (e).

Regarding the requirement of MPEP § 708.02(VIII)(b), the petitioner failed to include a statement regarding 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. This application appears to show and claim at least two embodiments or species.

Regarding the requirement of MPEP § 708.02(VIII)(e), 37 CFR § 1.111 (b) states "[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "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." Applicant fails to provide a detailed discussion of each reference cited and point out the particular language that distinguishes independent claim 67 from all cited references. Applicant's repeated general allegation that the applicant's claims are distinguishable over the various cited U. S. patent references A-AQ; U.S. Patent application references, AQ-AS and Japanese patent publication JP 03087717A as listed on the IDS runs contrary to 37 CFR § 1.111 (b), which does not allow for general allegations. Rather, each independent claim should be compared with each reference, and the differences between the two must be clearly stated. For *each* reference, the applicant must point out the specific differences between the reference and the language of independent claim 67. Because the petition does not point out the specific language in the independent claim 67 that distinguishes over each reference, it fails to meet the requirements of MPEP § 708.02(VIII)(e).

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 detailed discussion of each reference that clearly points out the specific language in the independent claim that distinguishes over the reference. Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

Petition DISMISSED.

Henry C. Yuen, Special Program Examiner
Technology Center 3700

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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APR 15 2008

OFFICE OF PETITIONS

In re Application of
GROUX, Herve et al.
Application No. 10/570,078
Filed: May 11, 2006
Attorney Docket No. **065691-0443**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a corrected decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 06, 2007.

The request is **MOOT** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to FOLEY AND LARDNER LLP has been revoked by the assignee of the patent application on December 03, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **YOUNG & THOMPSON**
209 MADISON STREET
SUITE 500
LEXANDRIA VA 22314

01 AUG 2006

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Charles Berman
Greenberg Traurig LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404

In re Application of
TANABE, Yasutada
Application No.: 10/570,082
Filing Date: February 28, 2006
Attorney Docket No.: 75536-010500/US
For: BVI NOISE REDUCTION METHOD AND APPARATUS FOR HELICOPTER

DECISION ON PETITION UNDER 37 CFR 1.182

This decision is issued in response to applicant's "Petition to Convert 35 U.S.C. 371 Application to a 35 U.S.C. 111 Continuation-in-Part Application" filed in the United States Patent and Trademark Office on 04 May 2006, which is being treated as a Petition under 37 CFR 1.182. The $400 petition fee will be charged to Deposit Account 50-2638, as authorized.

BACKGROUND

On February 28, 2006, applicant filed a Transmittal Letter to the United States Designated/Elected Office Concerning a Filing Under 35 U.S.C. 371 (Form PTO-1390) requesting processing of the instant application as a national stage application of an international application under 35 U.S.C. § 371 accompanied by: an information disclosure statement; a description, claims, and abstract. The papers submitted were assigned application number no. 10/570,082.

On 04 May 2006, applicant filed "Petition to Convert 35 U.S.C. 371 Application to a 35 U.S.C. 111 Continuation-in-Part Application."

DISCUSSION

Applicant states in the present petition that "a US National Phase Application based on PCT/JP2003/011098 already exists as US Application no. 10/569,903 filed February 28, 2006. Therefore, the above-identified application filed March 1, 2006 should be converted in a U.S. Continuation-in-Part." The end result for an international application designating the United States of America is a single U.S. national stage application. Thus, the filing of two national stage applications is improper. Therefore, this application cannot presently be processed under 35 U.S.C. §371.

However, the transmittal letter of February 28, 2006 was clearly an application for a United States patent. Applicant erred in identifying the application as a national stage application. The application papers contained all the elements necessary to obtain a filing date under 35 U.S.C. 111(a) and 37 CFR 1.53(b). Since applicant cannot proceed under 35 U.S.C. 371 and applicant has filed the necessary papers under 35 U.S.C. 111(a), it is appropriate in this instance to grant applicant's petition, construed as a petition under 37 CFR 1.182, to accept the papers filed on February 28, 2006 as an application filed under 35 U.S.C. 111(a).

It is noted that applicants have not claimed benefit of the international application in accordance with 37 CFR 1.78(a) and, accordingly, the instant application cannot be considered as a continuing-in-part application of PCT/JP2003/011098. Specifically, applicants have not provided the specific reference to the international application in accordance with 37 CFR 1.78 within the time period set therein. In order to claim benefit under 35 U.S.C. 120 to the prior-filed PCT application at this point, applicants must file a petition under 37 CFR 1.78(a)(3). The petition under 37 CFR 1.78(a)(3) must be accompanied by: 1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted; (2) the surcharge set forth in § 1.17(t); and; (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

CONCLUSION

As so construed, the above-noted petition is **GRANTED**.

This application is being forwarded to the Office of Initial Patent Examination for processing as an application filed under 35 U.S.C. 111(a) with a filing date of February 28, 2006.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Perkins Coie LLP
Post Office Box 1208
Seattle, WA 98111-1208

In re Application of	:	
TANABE et al.	:	
Application No.: 10/570,082	:	
Filed: February 28, 2006	:	DECISION ON PETITION
Attorney Docket No.: 70423.8002.US00	:	
For: HELICOPTER BLADE VORTEX INTERACTION NOISE REDUCING METHOD AND DEVICE	:	

This is a decision on the petition under 37 CFR 1.78(a)(3) filed June 10, 2009 to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to the prior-filed international application set forth in the amendment filed May 22, 2009.

The petition is **DISMISSED** without prejudice.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those application filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed international application has been included in an amendment filed May 22, 2009, as provided by 37 CFR 1.78(a)(2)(iii); and (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted

As for item (3), the petition states that "the entire delay between the date the claim was due and the date this petition was filed was unintentional," as required.
However, in view of the inordinate amount of time between the date that applicant was informed of the need for the filing of a petition under 37 CFR 1.78(a)(3) (see decision mailed 01 August 2008) and the filing of the present petition, there is a question whether the delay in prosecution was unintentional. Therefore, the Office is requiring additional information regarding the delay. The additional information should be in the form of an affidavit signed by the person(s) with firsthand knowledge of the circumstances surrounding the delay. In that regard, it is noted that the agent who signed the present petition was not of record during the entire period of delay.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and additional information is required to determine whether the delay was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298.

BryanLin

Bryan Lin
Legal Examiner
PCT Legal Administration

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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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18 NOV 2009

Perkins Coie LLP
Post Office Box 1208
Seattle, WA 98111-1208

In re Application of	:	
TANABE et al.	:	
Application No.: 10/570,082	:	
Filed: February 28, 2006	:	DECISION ON PETITION
Attorney Docket No.: 70423.8002.US00	:	
For: HELICOPTER BLADE VORTEX	:	
INTERACTION NOISE REDUCING	:	
METHOD AND DEVICE		

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed October 12, 2009 to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to the prior-filed international application set forth in the amendment filed May 22, 2009.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those application filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed international application has been included in an amendment filed with the previous petition, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the benefit claim to the prior-filed international application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Anthony Smith, Attorney Advisor, at (571) 272-3298. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Bryan Lin

Bryan Lin
Legal Examiner
PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of	:	
YANO, et al.	:	
U.S. Application No.: 10/570,087	:	
PCT No.: PCT/JP2004/012434	:	DECISION
Int. Filing Date: 23 August 2004	:	
Priority Date: 02 September 2003	:	
Atty Docket No.: 5404/139	:	
For: CURABLE COMPOSITION	:	

This decision is issued in response to the "Request For Correction of Filing Receipt" filed 13 November 2007, treated herein in part as a petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date to 01 March 2006. No petition fee is required.

BACKGROUND

On 23 August 2004, applicants filed international application PCT/JP2004/012434. The international application claimed a priority date of 02 September 2003 and it designated the United States. On 17 March 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submitting the basic national fee was 02 March 2006, i.e., thirty months from the priority date.

On 01 March 2006, applicants filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee, an English translation of the international application and a preliminary amendment.

On 04 October 2006, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) indicating the need to provide an executed oath or declaration of the inventors and payment of the applicable surcharge.

On 01 November 2006, applicant responded with an executed declaration.

On 13 April 2007, 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 "11/01/2006." Also on 13 April 2007, a filing receipt was issued that

identified the "Filing Date or 371(c) Date" as 11/01/2006.

On 13 November 2007, applicants filed the "Request For of Filing Receipt" considered herein as a petition under 37 CFR 1.181. The petition requests correction of the "Filing Date or 371(c) Date" listed on the filing receipt from 01 November 2006 to 01 March 2006.

DISCUSSION

The present petition requests that the "Filing Date or 371(c) Date" listed on the filing receipt be corrected from 01 November 2006 to 01 March 2006.

The "Filing Date or 371(c) Date" listed on the filing receipt for a national stage application filed under 35 U.S.C. 371 is the date of completion of the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). See MPEP 1893.03(b).

A review of the application file reveals that the materials filed by applicant on 01 March 2006 included the basic national fee and an English translation of the international application as filed. Accordingly, as of 01 March 2006, applicants had satisfied the requirements of 35 U.S.C. 371(c)(1) and (c)(2); but not the requirement of 35 U.S.C. 371(c)(4).

Based on the above, the date of completion of the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) for the present national stage application is 01 November 2006; the date that an executed declaration of the inventors was supplied. Therefore, the Notification Of Acceptance and filing receipt mailed 13 April 2007, both of which identified the 35 U.S.C. 371(c) date as 01 November 2006 were correct.

CONCLUSION

The petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date from 01 November 2006 to 01 March 2006 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. Such a petition should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Please direct further correspondence with respect to this petition 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
Telephone: (571) 272-3294
Facsimile: (571) 273-0459

28 MAR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

25889
COLLARD & ROE, P.C.
1077 Northern Blvd.
Roslyn, NY 11576-1696

In re Application of :
LAGIEWKA *et al* :
U.S. Application No.: 10/570,095 :
PCT No.: PCT/PL2003/000134 :
Int. Filing Date: 05 December 2003 :
Priority Date: 09 December 2002 :
Docket No.: Lucjan LAGIEWKA ET AL-1 PCT :
For: KINETIC ENERGY ABSORBER, :
PARTICULARLY FOR LARGE MOBILE :
OBJECTS :

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 01 March 2006 is hereby **GRANTED** as follows:

The basic national fee, surcharge fee and petition fee for a small entity have been paid. Applicants' statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was submitted.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 05 December 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 01 March 2006.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Jobst Hoerentrup	: DECISION ON REQUEST FOR
Patent Number	: 7640228	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/570,108	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/01/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **292** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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	: Akiko Takanami	: DECISION ON REQUEST FOR
Patent Number	: 7592070	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/570,115	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/01/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **603** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

In re Application of FITZGERALD et al. Application No.: 10/570,123 PCT No.: PCT/GB04/04197 Int. Filing Date: 01 October 2004 Priority Date: 01 October 2003 Attorney's Docket No.: C&R 114 For: C1Q RELATED PROTEIN	DECISION ON PETITION UNDER 37 CFR 1.181

This is in response to applicant's "Petition under 37 CFR 1.181(a)" "Request for Refund" based upon a failure to receive an Office Action, filed in the United States Patent and Trademark Office (USPTO) on 23 June 2008 alleging that applicant did not receive the Notification of Missing Requirements mailed on 13 September 2006.

On 19 March 2007, without receiving the Notification of Missing Requirements, applicant filed four complete declarations; each one was executed by one of the named inventors.

On 16 April 2007, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicant indicating that "a copy of the sequence listing in computer readable form had not been submitted as required by 37 CFR 1.821(e). On 20 April 2007, a copy of the sequence listing in computer readable format was filed in the USPTO. On 09 August 2007, a Notice of Acceptance was mailed to applicant indicating that the date of receipt and date of completion of all of the requirements of 35 U.S.C.371(c)(1),(c)(2) and (c)(4) date is 19 March 2007.

On 23 June 2008, applicant filed a petition under 37 CFR 1.181 and request for refund of the four month extension of time fees, which were charged to applicant's deposit account.

From a review of the USPTO records it is clear that the 13 September 2006 Notification of Missing Requirements was not mailed to applicant. The petition under 37 CFR 1.181 may be properly granted at this time. Since the Notification was not mailed, no extension of time fees are required. Applicant's request for a refund of extension of time fees is granted.

Applicant's petition under 37 CFR 1.181 is **GRANTED.** The fourth month extension of time fees of $1590 paid by applicant will be credited to applicant's deposit account. The application will be forwarded to Art Unit 1641 for examination of the application in due course.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3286
Facsimile: (571) 272-0459

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

02 JUL 2007

Roger L. Browdy
BROWDY AND NEIMARK, P.L.L.C.
624 Ninth Street, N.W.
Washington, DC 20001-5303

In re Application of
CONGARD *et al*
U.S. Application No.: 10/570,135
PCT No.: PCT/FR2004/002241
Int. Filing Date: 02 September 2004
Priority Date: 02 September 2003
Attorney Docket No.: CONGARD3
For: PROJECTION SCREEN, IN PARTICULAR FOR VIDEO PROJECTION REDUCING THE MOIRE EFFECT

DECISION

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 03 January 2007.

BACKGROUND

On 02 October 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) 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 03 January 2007, applicants filed a response which was accompanied by, *inter alia*, the subject petition; the surcharge fee; the petition and surcharge fees; a declaration signed by one of the two named inventors; a declaration of Yves Trelohan; and assorted documentary evidence.

DISCUSSION

Applicants claim that one of the two named inventors refuses to cooperate in the above-identified application and have filed the subject petition in response to the Form PCT/DO/EO/905 mailed 02 October 2006.

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor(s) cannot be located or refuses to cooperate; (3) a statement of the last known address(es) of the nonsigning joint inventor(s); (4) and an oath or declaration executed by the signing joint inventor(s) on their behalf and on behalf of the nonsigning joint inventor(s).

Concerning item (1), the petition fee of $200.00 has been paid.

Regarding items (3) and (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by one of the two co-inventors on behalf of himself and the nonsigning joint inventor. The residence, address and citizenship of both inventors are recorded on the declaration. This declaration meets the requirements of section 409.03(a) and is in compliance with 37 CFR 1.497(a) and (b).

Therefore, items (1), (3) and (4) are complete.

Regarding item (2), applicants' submitted a declaration by Mr. Trelohan who states that he sent certain documents to Mr. Congard on 23 March 2006 which included a copy of the subject application and a declaration. Mr. Congard was requested to sign and return the declaration. A second letter was mailed on 05 June 2006 reminding Mr. Patrice of his obligation to sign the documents. Copies of these letters with an accompanying English translation and copies of the postal receipts were submitted with the petition. Mr. Trelohan declares that he has "never received any response from Mr. Congard with respect to either of these two letters." No other action was taken to obtain the declarations.

This is insufficient to meet item (2) of 37 CFR 1.47(a).

Petitioners are claiming that the conduct of the nonsigning inventor constitutes a refusal pursuant to § 409.03(d) of the MPEP. Petitioners have shown that a complete copy of the subject application was mailed to the last known address of the nonsigning inventor as required. However, the French postal receipts used to prove receipt of the documents by Mr. Congard are in a foreign language without an accompanying English translation. Moreover, the copies submitted are illegible. Accordingly, there is no way to determine the receipt of these documents by Mr. Congard from the evidence presented. Furthermore, the 37 CFR 1.47(a) applicants should have attempted to contact the nonsigning inventor via telephone or email to verify his intention with regard to the subject application. Such efforts are not extraordinary and are required here.

For these reasons, item (2) of 37 CFR 1.47(a) is not yet satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

0 9 APR 2008

Roger L. Browdy
BROWDY AND NEIMARK, P.L.L.C.
624 Ninth Street, N.W.
Washington, DC 20001-5303

In re Application of
CONGARD *et al*
U.S. Application No.: 10/570,135
PCT No.: PCT/FR2004/002241
Int. Filing Date: 02 September 2004
Priority Date: 02 September 2003
Attorney Docket No.: CONGARD3
For: PROJECTION SCREEN, IN PARTICULAR FOR VIDEO PROJECTION REDUCING THE MOIRE EFFECT

DECISION

This decision is in response to the papers filed 13 February 2008.

BACKGROUND

On 02 July 2007, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 11 January 2008, a Notice of Abandonment failure to respond to the Decision on Petition was mailed.

On 13 February 2008, applicants filed a response which was accompanied by, *inter alia*, a petition to revive under 37 CFR 1.137(b) with fee, a declaration of Yves Trelohan, and copies of a French postal receipt with English notes.

DECISION

Petition to Revive Under 37 CFR 1.137(b)

A petition to revive pursuant to 37 CFR 1.137(b) requires: (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Applicants submitted a renewed petition under 37 CFR 1.47(a). This is considered an appropriate response. Item (1) is satisfied. Applicants provided the petition fee of $1,540.00. Applicants' statement in the petition meets the requirement of

37 CFR 1.137(b)(3). A terminal disclaimer is not required. All items of 37 CFR 1.137(b) are complete.

Applicants' petition to revive under 37 CFR 1.137(b) is **GRANTED**.

Petition Under 37 CFR 1.47(a)

Items (1), (3) and (4) of 37 CFR 1.47(a) were completed in the initial petition filed 03 January 2007. However, the petition was dismissed for failing to provide evidence of receipt of a copy of the subject application by the nonsigning inventor. Moreover, the 37 CFR 1.47(a) applicants did not present evidence showing that they attempted to contact the nonsigning inventor to verify the intentions of the nonsigning inventor. As such, item (2) of 37 CFR 1.47(a) was deemed not yet complete.

In the renewed petition, the 37 CFR 1.47(a) applicants submitted a declaration by Yves Trelohan who states that "I have contacted Mr. Congard twice during the U.S. patent process and he clearly informed me that he will not sign the document." Mr. Trelohan also claims that the nonsigning inventor is "cooperating with a competitor of Screen Research," as such, he believes that "further contacts beyond those reported above will be futile."

Mr. Trelohan also provides a translation of the French postal receipt submitted in the initial petition which indicates that the receipt was sent to the last known address for the nonsigning inventor and received. Mr. Trelohan concludes that despite the signature of receipt being illegible, "a registered letter will only be delivered to the addressee by the French Post Office."

This additional evidence is sufficient to show that the conduct of Mr. Congard constitutes a refusal to cooperate as contemplated by section 409.03(d) of the MPEP. Applicants have now provided sufficient evidence to meet the requirements of item (2) of 37 CFR 1.47(a).

Accordingly, all the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 02 September 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 03 January 2007.

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 Office of Patent Application processing for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/570,137	03/01/2006	Masahiko Shibata	Q93573	5056

7590 04/01/2009
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
DASTOURI, MEHRDAD

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
04/01/2009	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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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Whitham, Curtis, Christofferson & Cook, PC
11491 Sunset Hills Road
Suite 340
Reston, VA 20190

01 MAY 2007

In re Application of	:	
FILLMORE, Helen et al.	:	
Application No.: 10/570,160	:	DECISION ON
PCT No.: PCT/US04/29465	:	
Int. Filing Date: 10 September 2004	:	PETITION
Priority Date: 12 September 2003	:	
Attorney's Docket No.: 02940333A	:	UNDER 37 CFR 1.182
For: CHIMERIC TRANSCRIPTION	:	
FACTOR DECOY	:	
OLIGONUCLEOTIDES	:	

This decision responds to applicants' Petition Under 37 C.F.R. §1.182, filed with the United States Patent and Trademark Office on 02 March 2007. The petition fee will be charged to deposit account no. 50-2041, as authorized.

BACKGROUND

On 10 September 2004, applicants filed international application PCT/US04/29465, claiming a priority date of 12 September 2003. The deadline for entry into the national stage in the United States was midnight 12 March 2006.

On 01 March 2006, applicants filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee.

On 17 October 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 18 December 2006, applicants submitted a declaration of the inventors. The declaration indicated that the second inventor was "Jessica I. Martin Rege" and included non-initialed, non-dated alterations to the residence and post office address of the inventor.

On 05 February 2007, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916) indicating that applicants had not supplied proof of name change for the inventor.

On 02 March 2007, applicants submitted a petition under 37 CFR 1.182.

DISCUSSION

The declaration is executed by "Jessica I. Martin Rege". The international application listed "Jessica I. Martin".

Applicants has supplied a statement signed by "Jessicca Martin Rege" stating that "Jessicca I. Martin" was her former name, but that it has been legally changed to "Jessicca Martin Rege". Applicants have adequately explained the name change from Martin to Rege. However, applicants have changed the spelling of the inventor's first name from "Jessica" to "Jessicca". Clarification of this discrepancy is required. If it was a typographical error, a statement to that effect and a statement of which spelling is correct is required.

Additionally, the declaration does not comply with 37 CFR 1.497(a)-(b) as it contains non-initialed, non-dated alterations. Alterations made in ink should be initialed and dated prior to execution of the oath or declaration. MPEP 605.04(a). A new oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

Applicants are required to submit clarification of the name discrepancy and an oath or declaration in compliance with 37 CFR 1.497(a)-(b) 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 1.182."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

2 1 DEC 2007

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Whitham, Curtis, Christofferson & Cook, PC
11491 Sunset Hills Road
Suite 340
Reston, VA 20190

In re Application of	:	
FILLMORE, Helen et al.	:	
Application No.: 10/570,160	:	DECISION ON
PCT No.: PCT/US04/29465	:	
Int. Filing Date: 10 September 2004	:	PETITION
Priority Date: 12 September 2003	:	
Attorney's Docket No.: 02940333A	:	UNDER 37 CFR 1.182
For: CHIMERIC TRANSCRIPTION	:	
FACTOR DECOY	:	
OLIGONUCLEOTIDES	:	

This decision responds to applicants' renewed Petition Under 37 C.F.R. §1.182, filed with the United States Patent and Trademark Office on 05 July 2007.

BACKGROUND

On 01 May 2007, the Office mailed Decision On Petition Under 37 CFR 1.1.82, dismissing applicant's petition without prejudice.

On 05 July 2007, applicants filed this renewed petition under 37 CFR 1.182, accompanied by the fee for a one month extension of time.

DISCUSSION

The declaration is executed by "Jessica I. Martin Rege". The international application listed "Jessica I. Martin".

Previously, applicants adequately explained the name change from Martin to Rege of inventor Jessicca Rege. Applicant have now explained that her full name is Jessicca I. Martin Rege and that the spelling of her first name with one "c" was in error.

However, applicants were previously informed that the declaration does not comply with 37 CFR 1.497(a)-(b) as it contains non-initialed, non-dated alterations. Alterations made in ink should be initialed and dated prior to execution of the oath or declaration. MPEP 605.04(a). Applicants' new declaration also contains non-initialed, non-dated alterations made in ink. A new oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required. Additionally, while it is acceptable for inventors to execute separate copies of the oath or declaration, the complete oath or declaration executed by the inventor must be submitted. It is not acceptable to piece together pieces of separately executed declarations to create a single composite declaration.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

Applicants are required to submit an oath or declaration in compliance with 37 CFR 1.497(a)-(b) within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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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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MAY 2 8 2008

In re Application of	:	
Kars-Michiel Hubert LENSSEN	:	
Application No. 10/570,174	:	DECISION ON PETITION
Filed: February 28, 2006	:	
Attorney Docket No. NL031087US2	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 01, 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 August 02, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of May 01, 2007 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application file is being referred to Technology Center AU 2827 for appropriate action on the concurrently filed amendment.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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ERIC HANSCOM
7395 PORTAGE WAY
CARLSBAD, CA 92011

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DEC 22 2008

OFFICE OF PETITIONS

In re Application of	:	
HOLL, Richard A.	:	
Application No. 10/570,180	:	DECISION ON PETITION
Filed: February 28, 2006	:	TO WITHDRAW
Attorney Docket No. **396-26-002**	:	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 November 07, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Eric Hanscom has been revoked by the applicant of the patent application on November 17, 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: **KOPPEL, PATRICK & HEYBL**
555 ST. CHARLES DRIVE
SUITE 107
THOUSAND OAKS CA 91360

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KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
SUITE #1600
PORTLAND, OR 97204-2988

Mail Date: 04/20/2010

Applicant	: Syed V. S. Kashmiri	: DECISION ON REQUEST FOR
Patent Number	: 7589181	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/570,220	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **456** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DITTHAVONG MORI & STEINER, PC
918 PRINCE STREET
ALEXANDRIA, VA 22314

Applicant: Suzuki
Appl. No.: 10/570,241
Filing Date: Feb. 28, 2006
Title: SWIVEL STAND
Attorney Docket No.: 01095_1000
Pub. No.: 2007/0007401 A1
Pub. Date: March 12, 2007

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OFFICE OF PETITIONS

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on March 12, 2007, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

It would greatly benefit the Office if **applicant did not provide copies of papers, i.e. complete copy of the specification and claims**, 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 O. Polutta at (703) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

MAILED

JUN 04 2010

OFFICE OF PETITIONS

In re Application of :
Rene Cornelis Josephus Hogers :
Application No. 10/570,249 : NOTICE
Filed: April 19, 2007 :
Attorney Docket No. HOGERS1

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/570,270	05/11/2006	Kohji Fukatsu	Q101067	1856

23373 7590 02/17/2010
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
WILLIS, DOUGLAS M

ART UNIT	PAPER NUMBER
1624	

NOTIFICATION DATE	DELIVERY MODE
02/17/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

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FEB 17 2010

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of:	:
Fukatsu et al.	:
Serial No.: 10/570,270	: PETITION DECISION
Filed: May 11, 2006	:
Attorney Docket No.: **Q101067**	:

This is in response to the petition under 37 CFR § 1.181, filed November 2, 2009, requesting that the finality of the Office action of September 2, 2009 be withdrawn.

BACKGROUND

The examiner mailed a non-final Office action on March 3, 2009 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1 and 4-34 were pending and claims 12 and 26-34 were withdrawn from consideration. The examiner rejected claims 1, 4-11, 13-20 and 22-25 under 35 USC 112, first paragraph, as enabling for specific oxazolopyrazinones and pharmaceutical compositions. Claims 1, 4-11, 13-16 and 22-25 were rejected under 35 USC 112, second paragraph, as indefinite.

In reply to the non-final Office action of March 3, 2009, applicants filed a response on August 3, 2009 and August 25, 2009. The responses submitted by applicants included remarks, arguments traversing the rejections made in the non-final Office action and amendments to the claims. Claims 12 and 28-33 were cancelled.

On September 2, 2009, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 1, 4-11, 13-15, 18-20 and 22 were rejected and claims 26, 27 and 34 were withdrawn from consideration. The examiner rejected claims 1, 4-11, 13-15, 18 and 22 under 35 USC 112, second paragraph, as indefinite.

In response thereto, applicants filed this petition on November 2, 2009, requesting that the finality of the Office action of September 2, 2009 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed by applicants on November 2, 2009, applicants request that the finality of the Office action of September 2, 2009 be withdrawn as improper. Specifically, applicants argue that "it is improper to make an Office Action final where the rejections and objections are not necessitated by Applicants' claim amendments. In this case, many of the recitations in the claims objected to and/or rejected by the Examiner were in the claims prior to the previous Amendment and Supplemental Amendment filed on August 3, 2009 and August 25, 2009, respectively, and therefore the objections and rejections could have been previously raised by the Examiner. Under these circumstances, it is not proper to make the Action Final, since, contrary to the Examiner's assertion, the new objections and new rejections were not necessitated by the Amendment and Supplemental Amendment filed on August 3, 2009 and August 25, 2009, respectively."

Applicants' argument is well taken and persuasive since applicants' amendments did not necessitate all of the new rejections. The examiner rejected the language "may be condensed" recited in claim 18 [step (e)] for the first time in the final Office action September 2, 2009. It is noted that this language was before the examiner at the time of the non-final Office action of March 3, 2009. MPEP § 706.07 recites:

> 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).

Thus, it is *not* proper for an office action to be made final when the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c). Accordingly, it is decided that Applicants' argument is well-taken and found persuasive.

DECISION

The petition is **GRANTED.**

The Office action mailed September 2, 2009 is hereby vacated to the extent that it was made "final" and the Office action is now considered to be a non-final Office action. The after final amendment of December 2, 2009 will also be entered. This application will be forwarded to the examiner to take an action consistent with the decision herein.

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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P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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JAN 22 2009

OFFICE OF PETITIONS

In re Application of
Yoshikazu Kuroumaru et al
Application No. 10/570,297
Filed: February 27, 2006
Attorney Docket No. 207080204041US0

ON PETITION

This is a decision on the petition, filed January 21, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 11, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3656 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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www.uspto.gov

22 JAN 2007

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

In re Application of	:	
SIGO et al.	:	
Application No.: 10/570,299	:	DECISION
PCT No.: PCT/EP2004/052150	:	
Int. Filing Date: 13 September 2004	:	
Priority Date: 12 September 2003	:	
Attorney Docket No.: 251066	:	
For: PLANNING OF SIMULTANEOUS	:	
EXAMINATIONS FOR A SINGLE PATIENT	:	
WITHIN ONE TIME SLOT	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 04 January 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 13 September 2004, applicants filed international application PCT/EP2004/052150, which designated the United States and claimed a priority date of 12 September 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 24 March 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 13 March 2006 (12 March 2006 being a Sunday).

On 28 February 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 03 November 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required.

On 04 January 2007, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(h), a petition/fee for a one-month extension of time, a declaration of facts by Annemie Verbrugghe, and a copy of an e-mail exchange between Annemie Verbrugghe and non-signing inventor Miguel Sigo.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Items(1)-(4) have been met. The declaration of inventors filed 04 January 2007 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **04 January 2007**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Avilov Anatoly Sergeevich	: DECISION ON REQUEST FOR
Patent Number	: 7601956	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/570,336	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/01/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **640** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.
10/570,343	03/03/2006	Yasuaki Ogiwara	1009682-000157	5454

21839 7590 03/17/2008
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER
THOMPSON, TIMOTHY J

ART UNIT	PAPER NUMBER
2873	

NOTIFICATION DATE	DELIVERY MODE
03/17/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BUCHANAN INGERSOLL & ROONEY PC
P.O. Box 1404
Alexandria, VA 22313-1404

MAR 17 2008

In re Application of	:	
Yasuaki OGIWARA	:	DECISION ON REQUEST TO
Application No. 10/570,343	:	PARTICIPATE IN PATENT
Filed: March 3, 2006	:	PROSECUTION HIGHWAY
Attorney Docket No. 1009682-000157	:	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 February 25, 2008, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

* * * * * * * *

Conditions (2) to (7) above are considered to have been met. However, the request to participate in the PPH pilot program and petition fails meet condition (1).

Regarding the requirement of condition (1), the instant application is filed under 35 USC 111(a), which validly claims priority under 35 USC 120 to a PCT application (PCT/JP 2004/12557), which PCT application validly claims priority under 35 USC 365(b) to one or more applications filed in the JPO (JP 2003-311782; JP 2004-048084; and JP 2004-074664). However, the since the JP national application containing the allowable/patentable claims (JP 2005-513637) is a JP application other than the priority application, applicant must indicate how the JP national application with the allowable/patentable claims is related to the JP priority application. See "Revised Requirements for Requesting Participation in the Patent Prosecution Highway pilot Program in the USPTO," dated May 17, 2007, next to last paragraph.

A proper response in this case must include:

(a) an explanation how the JP national application (JP 2005-513637) with the allowable/patentable claims is related to the JP priority applications (JP 2003-311782; JP 2004-048084; and JP 2004-074664) 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 with the time period given, the application will await action in its regular turn.

Response must be faxed to Michael Day at 571-273-1568.

Telephone inquiries concerning this decision should be directed to Michael Day at 571-272-1568.

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.

Michael Day
TQAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/570,343	03/03/2006	Yasuaki Ogiwara	1009682-000157	5454

21839 7590 04/07/2008
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER
THOMPSON, TIMOTHY J

ART UNIT	PAPER NUMBER
2873	

NOTIFICATION DATE	DELIVERY MODE
04/07/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

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BUCHANAN INGERSOLL & ROONEY PC
P.O. Box 1404
Alexandria, VA 22313-1404

In re Application of	:	
Yasuaki OGIWARA	:	DECISION ON REQUEST TO
Application No. 10/570,343	:	PARTICIPATE IN PATENT
Filed: March 3, 2006	:	PROSECUTION HIGHWAY
Attorney Docket No. 1009682-000157	:	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 February 25, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

Discussion

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, note where the JPO 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 JPO application with similar claims and the JPO priority application;
2. Applicant must submit a copy of:
    a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the 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) and
    c. A statement that the English translation is accurate;
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 JPO 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 JPO application(s) containing the allowable/patentable claim(s) or
        ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
        iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;

    Further, if a copy of the documents from a or b above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the 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 language translation of the JPO Office action from (5)(a)(i)-(ii) above
    c. A statement that the English translation is accurate;
6. Applicant must submit:
    a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
    b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);
7. The required petition fee under 37 CFR 1.17(h).

A proper response in this case was received on March 31, 2008 and included an explanation how the JP national application (JP 2005-513637) with the allowable/patentable claims is related to the JP priority applications (JP 2003-311782; JP 2004-048084; and JP 2004-074664).

CONCLUSION

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.

Response must be filed via the Electronic Filing System (EFS) with the Document Code PPH.PET.652 unless this is a request from the pilot program in which case a fax submission is also acceptable. Fax may be sent to Michael Day at 571-273-1568.

Telephone inquiries concerning this decision should be directed to Michael Day at 571-272-1568.

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.

This application is being forwarded to the examiner for action on the merits commensurate with this decision.

Michael Day
TQAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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FITCH, EVEN, TABIN & FLANNERY
P. O. BOX 18415
WASHINGTON DC 20036

14 NOV 2006

In re Application of
Nakagawara et al.
Application No. 10/570,346
PCT No.: PCT/JP04/12955
Int. Filing Date: 06 September 2004
Priority Date: 05 September 2003
Atty. Docket No.:738888083
For: Agent For Prevention And/Or Treatment Of Alzheimer's Disease

DECISION

This is in response to the "Response To Notice To File Missing Parts Dated June 27, 2006," filed on 30 June 2006.

BACKGROUND

This international application was filed on 06 September 2004, claimed an earlier priority date of 05 September 2003, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 17 March 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 06 March 2006 (since 05 March 2006 was a Sunday). Applicants filed, *inter alia*, the basic national fee on 03 March 2006.

On 06 June 2006, applicants submitted a declaration of the inventors.

On 27 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) and a surcharge under 37 CFR 1.492(h).

DISCUSSION

Applicants refer to the executed declaration filed on 06 June 2006, which was filed prior to the mailing of Form PCT/DO/EO/905 on 27 June 2006. However, inspection of the declaration filed on 06 June 2006 reveals that the second-named inventor is "Toshinori OZAKI," whereas the published international application instead nominates "OZAKI, Toshifumi." To the extent that this discrepancy represents more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition and fee under 37 CFR 1.182 would be required to resolve this matter. *See* MPEP § 605.04(b) and MPEP § 201.03(b). In the absence of a grantable petition under 37 CFR 1.182 (or other acceptable response such as evidence of the recording of a change pursuant to PCT Rule 92*bis*), it would not be appropriate to accept the declaration at this time.

CONCLUSION

The declaration filed on 06 June 2006 is **NOT ACCEPTED**, without prejudice.

A proper response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

United States Patent and Trademark Office

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United States Patent and Trademark Office
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FITCH, EVEN, TABIN & FLANNERY
P. O. BOX 18415
WASHINGTON DC 20036

16 MAR 2007

In re Application of	:	
Nakagawara et al.	:	
Application No. 10/570,346	:	
PCT No.: PCT/JP04/12955	:	
Int. Filing Date: 06 September 2004	:	DECISION
Priority Date: 05 September 2003	:	
Atty. Docket No.:738888083	:	
For: Agent For Prevention And/Or	:	
Treatment Of Alzheimer's Disease	:	

This is in response to the "Response To Decision Dated 14 November 2006 (PCT Branch)," filed on 10 January 2007.

DISCUSSION

In a Decision mailed on 14 November 2006, the "Response..." filed on 30 June 2006 was treated, and the declaration filed on 06 June 2006 was not accepted, without prejudice, because

> Applicants refer to the executed declaration filed on 06 June 2006, which was filed prior to the mailing of Form PCT/DO/EO/905 on 27 June 2006. However, inspection of the declaration filed on 06 June 2006 reveals that the second-named inventor is "Toshinori OZAKI," whereas the published international application instead nominates "OZAKI, Toshifumi." To the extent that this discrepancy represents more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition and fee under 37 CFR 1.182 would be required to resolve this matter. *See* MPEP § 605.04(b) and MPEP § 201.03(b). In the absence of a grantable petition under 37 CFR 1.182 (or other acceptable response such as evidence of the recording of a change pursuant to PCT Rule 92*bis*), it would not be appropriate to accept the declaration at this time.

In response, applicants state that "the second-named inventor is properly named as Toshinori Ozaki," and that "Any mistake resulted from mis-interpretation or transliteration from the Japanese/Chinese characters for the second-named inventor when filing the PCT application, and the transliterated name was not discovered until the National Phase Applications, specifically this U.S. National Phase Application, was being prepared." Counsel refers to the accompanying "Declaration of Shigeo Ota" and "Declaration of Toshinori Ozaki" to support this position.

The "Declaration of Toshinori Ozaki" states in part that it "is my understanding that the characters in the Japanese language for my first name can be mis-read or transliterated as Toshifumi instead of Toshinori," that "I am the same individual identified as Toshifumi Ozaki on PCT application PCT/JP2004/012955...," that "I discovered that there was a mistake in my first name in the PCT application in 2006 when I was asked to review application papers, which

included an Oath and Declaration for this U.S. application," and that "I had no deceptive intention and acted in good faith when I signed and dated the Oath and Declaration for this U.S. Application." Meanwhile, the "Declaration of Shigeo Ota" describes the circumstances under which the discrepancy arose, indicating in part that "In the Japanese language the characters for inventor Mr. Ozaki's first name could be transliterated as Toshifumi or Toshinori, but in general should ordinarily be read as Toshifumi." Based on the totality of the evidence presently of record, it would be appropriate to conclude that the discrepancy in Mr. Ozaki's first name resulted from a mere transliteration error, and that the name "Toshinori" appearing on the declaration filed on 06 June 2006 is correct. As such, the declaration filed on 06 June 2006 is being accepted for purposes of compliance with 37 CFR 1.497(a) and (b).

It is noted that the English translation of the international application, filed on 03 March 2006, is defective because each sheet of drawings in the translation includes text (in the top margin) which is not included in the respective sheet of drawings in the published international application.

CONCLUSION

The declaration filed on 06 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 **06 June 2006**.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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Paper No.

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED
JUL 20 2010
OFFICE OF PETITIONS

In re Application of	:	
Seebeck et al.	:	
Application No. 10/570,350	:	ON APPLICATION FOR
Filed: March 3, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. : 03459.0040	:	
Title: CYCLIC NUCLEOTIDE-	:	
SPECIFIC PHOSPHODIESTERASES	:	
FROM LEISHMANIA AND USES	:	
THEREOF	:	

This is a decision on the "NOTICE OF POSSIBLE PTO ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT AND REQUEST FOR CLARIFICATION OF CALCULATION," filed June 1, 2010. Applicants request that the patent term adjustment be corrected from three hundred and fifty-five (355) days to two hundred and thirty-five (235) days.

The request for reconsideration of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is 235 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 2, 2010, the Office mailed a "Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)," which indicated that the Patent Term Adjustment to date was 355 days. The present request for reconsideration filed June 1, 2010, was timely filed as it was submitted concurrently with the issue fee. See § 1.705(b). Applicants assert that an additional reduction should have been assessed, associated with a response to the

mailing of a "Notification to Comply with Requirements for Patent Applications containing Nucleotide and/or Amino Acid Sequence Disclosures" (hereinafter referred to as "notice").

A review of the application history supports a conclusion that Applicants are correct.

37 CFR 1.704(b) sets forth, *in toto*:

> 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.

Moreover, as set forth in 1239 OG 14 (October 3, 2000):

> The three-month period in 1.704(b) applies to the Office notices and letters issued as part of the pre-examination processing of an application (except a Notice of Omitted Items in a Nonprovisional Application (PTO-1669) as discussed above). These notices include…a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO-1661).

The notice was mailed on September 25, 2006, and a response was received three months and 120 days later on April 24, 2007. Consequently, a reduction of 120 days is appropriate.

A reduction of 120 days has been entered.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 235 (412 days of Office delay minus 177 days of Applicant delay) days.

The $200.00 fee under 37 C.F.R. § 1.18(e) will be charged to Deposit Account No. 06-0916 in due course. The Office thanks Applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Monday
Date: 7/19/2010

PALM INTRANET

Time: 13:58:26

PTA Calculations for Application: 10/570350			
Application Filing Date:	03/03/2006	PTO Delay (PTO):	412
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	57
Post-Issue Petitions:	0	Total PTA (days):	235
PTO Delay Adjustment:	-120		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
65	07/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		120	
48	03/02/2010	MAIL NOTICE OF ALLOWANCE			
47	03/01/2010	ISSUE REVISION COMPLETED			
46	03/01/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
45	02/24/2010	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
44	02/24/2010	DOCUMENT VERIFICATION			
43	02/16/2010	EXAMINER'S AMENDMENT COMMUNICATION			
42	02/16/2010	NOTICE OF ALLOWABILITY			
41	02/16/2010	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
36	01/25/2010	DATE FORWARDED TO EXAMINER			
35	01/22/2010	AMENDMENT AFTER FINAL REJECTION			
34	11/19/2009	MAIL FINAL REJECTION (PTOL - 326)			
33	11/18/2009	FINAL REJECTION			
32	09/13/2009	DATE FORWARDED TO EXAMINER			
31	07/22/2009	RESPONSE AFTER NON-FINAL ACTION			
30	05/05/2009	MAIL NON-FINAL REJECTION			
29	05/05/2009	NON-FINAL REJECTION			
28	03/03/2009	DATE FORWARDED TO EXAMINER			
27	02/11/2009	RESPONSE AFTER NON-FINAL ACTION		57	25
26	02/11/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	09/16/2008	MAIL NON-FINAL REJECTION			
24	09/15/2008	NON-FINAL REJECTION			
21	08/11/2008	DATE FORWARDED TO EXAMINER			
20	07/18/2008	RESPONSE TO ELECTION / RESTRICTION FILED			

19	06/20/2008	MAIL RESTRICTION REQUIREMENT	412		10
18	06/18/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
16	12/20/2007	PG-PUB ISSUE NOTIFICATION			
15	10/18/2007	CASE DOCKETED TO EXAMINER IN GAU			
14	10/10/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	04/24/2007	PRELIMINARY AMENDMENT			
11	09/20/2007	APPLICATION DISPATCHED FROM OIPE			
10	03/05/2006	371 COMPLETION DATE			
9	09/13/2007	SENT TO CLASSIFICATION CONTRACTOR			
8	09/13/2007	NOTICE OF DO/EO ACCEPTANCE MAILED			
7	04/24/2007	ADDITIONAL APPLICATION FILING FEES			
6	04/24/2007	PRELIMINARY AMENDMENTS			
5	04/24/2007	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
4	04/24/2007	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
3	05/15/2007	ERROR(S) IN CRF CORRECTED BY STIC			
2	03/18/2006	CLEARED BY OIPE CSR			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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June 10, 2009

Eric J. Green
Baker & Daniels
300 North Meridian Street, Suite 2700
Indianapolis, IN 46204

Patent No.: 7,499,621 B2
Application No.: 10/570,360
Inventor(s): Robert Vanhentenrijk, et al.
Issued: March 3, 2009
Title: **PROCTECTIVE CASING COMPONENT AND AN ELEMENT FOR FORMING A PROTECTIVE CASING COMPONENT**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 756-1591

vt

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.
10/570,370	03/02/2006	Taisuke Matsumoto	MAT8821US	9462

23122 7590 06/17/2010
RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

EXAMINER
EBRAHIM, ANEZ C

ART UNIT	PAPER NUMBER
2467	

MAIL DATE	DELIVERY MODE
06/17/2010	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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DIRECTOR OFFICE
TECHNOLOGY CENTER 24

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE PA 19482

In re Application of:
Taisuke Matsumoto
Application No. 10/570,370
Filed: March 2, 2006
For: MOBILE ROUTER DEVICE AND HOME AGENT DEVICE

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed March 23, 2010 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to enter the Rule 312 Amendment.

The petition is **DISMISSED AS MOOT**.

On March 23, 2010, Applicant's counsel filed a petition to the Director under 37 CFR § 1.181 because the Image File Wrapper is unclear regarding the allowed claims. Specifically, The Notice of Allowance indicated that an Examiner's Amendment had been made to the application. However, no Examiner's Amendment accompanied the Notice of Allowance. To clarify the record, Applicant's representative submitted a Rule 312 Amendment. Entry of the amendment was denied.

A review of the record indicates that the Examiner's Amendment was made of record, and on May 26, 2010, Examiner's Amendment was resent to Applicant.

Accordingly, the petition is **DISMISSED AS MOOT.**

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3126.

Chau T. Nguyen
Workgroup Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

1 5 JAN 2008

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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of	:	
MOXEY, Norman A., et al.	:	
U.S. Application No.: 10/570,380	:	DECISION
Filing Date: 01 March 2006	:	
Attorney Docket No.: 1866-8532US	:	
For: PEG TOOL	:	

This is a decision on applicant's petition to convert this application from a filing under 35 USC 111(a) to a filing under 35 USC 371, filed in the United States Patent and Trademark Office on 08 November 2007.

BACKGROUND

On 31 August 2004, applicant filed international application PCT/US2004/001179, claiming a priority date of 01 September 2003. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 01 March 2006.

On 01 March 2006, applicant filed *inter alia*, a declaration, fees, a preliminary amendment and a substitute specification indicating that the application was a continuation-in-part of PCT/US2004/001179.

On 22 August 2006, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the application had satisfied the requirements under 35 USC 371(c)(1), (c)(2), and (c)(4) on 01 March 2006.

On 08 November 2007, applicants filed this petition to covert the above application from a national phase application to a filing under 35 USC 111(a).

DISCUSSION

A review of the above-captioned application file indicates it is a utility application filed under 35 U.S.C. 111(a).

The USPTO 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.

Here, the indication in the specification that the application is a continuation-in-part of the international application, rather than a national stage of the international application, is an instruction to process the application pursuant to 35 U.S.C. 111(a). Thus, the application is a filing under 35 U.S.C. 111(a) pursuant to 1077 OG 13.

CONCLUSION

As indicated above, applicants' petition to process this application as a 35 USC 111(a) filing is **GRANTED**.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the Office of Patent Application Processing for continued processing, including removal of the national phase paperwork and processing as a 35 USC 111(a) application.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

2 4 MAY 2007

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Ronald E. Greigg
Greigg & Greigg, PLLC
1423 Powhatan Street
Suite One
Alexandria, VA 22314

In re Application of	:	
RANKIN, et al.	:	
U.S. Application No.: 10/570,387	:	DECISION ON PETITION
PCT No.: PCT/GB04/03782	:	
Int. Filing Date: 02 September 2004	:	UNDER 37 CFR 1.137(b)
Priority Date: 03 September 2003	:	
Attorney Docket No.: (06:34)	:	
For: WEB COVERS FOR CONVEYOR SCREENS	:	

The petition to revive under 37 CFR 1.137(b) filed 30 October 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been provided.

The application has an international filing date of 02 September 2004 under 35 U.S.C. 363 and will be given a date of **30 October 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

26 SEP 2006

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Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza, Suite 300
Garden City, New York 11530

In re Application of	:	
SATO et al.	:	
Application No.: 10/570,392	:	
PCT No.: PCT/JP04/12543	:	
Int. Filing Date: 31 August 2004	:	DECISION
Priority Date: 02 September 2003	:	
Attorney Docket No.:19646	:	
For: SIGNAL PROCESSING METHOD AND DEVICE	:	

This decision is issued in response to applicants' "Petition under 37 CFR 1.181" filed in the United States Patent and Trademark Office (USPTO) on 14 September 2006.

BACKGROUND

On 01 March 2006, applicants timely filed a request to enter into the national stage under 35 U.S.C. 371 along with the appropriate basic national filing fee, a translation of the international application, and an executed declaration.

On 14 September 2006, applicants filed the present request under 37 CFR 1.181. The request to correct the filing (or receipt) date included a copy of the Customer Receipt of the United States Postal Service "Express Mail" mailing label #EV861633017US.

DISCUSSION

On 14 September 2006, applicants filed the present petition requesting that the filing/receipt date of the above identified national stage application be corrected to indicate the correct date on which the national stage papers were filed and on which the requirements under 35 U.S.C. 371 (c) were completed; i.e. 02 March 2006.

A copy of the Customer Copy of the "Express Mail" label No. #EV861633017US filed with the petition bears a "Date In" of 02 March 2006, and further information obtained from the United States Postal Service (USPS) Express Mail database shows that "#EV861633017US" was accepted by the USPS on 02 March 2006. The same "Express Mail" label number was placed on the transmittal letter located in the application file, but was date stamped as received in the PTO on 01 March 2006.

Pursuant to 37 CFR 1.10 (c), the promptly presented evidence is convincing that the national stage papers together with the other listed items on the transmittal letter were filed on 02 March 2006. Thus, the application met the requirements of 35 U.S.C. 371(c) and thus entered the national stage in the United States on 02 March 2006.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

This application is being forwarded to United States Designated/Elected Office for further processing and for review of the national stage papers submitted 02 March 2006 and, if appropriate, preparation and mailing of the Notification of Acceptance of Application under 35 U.S.C. 371 (Form PCT/DO/EO/903) and Official Filing Receipt indicating a date of **02 March 2006** under 35 U.S.C. 371(c).

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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30 JAN 2007

NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

In re Application of WUMPELMANN	:	
U.S. Application No.: 10/570,398	:	
PCT Application No.: PCT/DK2004/000561	:	DECISION
Int. Filing Date: 24 August 2004	:	
Priority Date Claimed: 01 September 2003	:	
Attorney Docket No.: 10523.204-US	:	
For: METHOD FOR INCREASING YIELD OF BIOMASS. . .	:	

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 26 January 2007.

BACKGROUND

On 24 August 2004, applicant filed international application PCT/DK2004/000561, which claimed priority of an earlier Denmark application filed 01 September 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 10 March 2005. The thirty-month period for paying the basic national fee in the United States expired on 01 March 2006.

International application PCT/DK2004/000561 became abandoned as to the United States for failure to timely pay the basic national fee.

On 02 March 2006, applicant filed purported 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 12 October 2006, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

On 26 January 2007, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 12 October 2006 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 24 August 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 02 March 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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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

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In re Application of	:	
Mogens Wumpelmann	:	
Application No. 10/570,398	:	ON PETITION
Filed: March 2, 2006	:	
Attorney Docket No. 10523.204-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed April 8, 2008. A Notice of Abandonment was mailed on October 24, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1651 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND OR 97204

JAN 03 2007

In re Application of: BEARD
Serial No.: 10/570,400
Filed: March 2, 2006
Title: METHODS AND DEVICES FOR UTILIZING FLOWING POWER

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on November 22, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.
5. The petition must be filed with the application.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the petition was not filed with the application. As noted in the policy statement referenced above, any petition to make special filed on or after the effective date must meet the new requirements set forth in the 71 Fed. Reg. 36323 notice. Applications filed before

the effective date will not be eligible for the revised accelerated examination program. The effective date of the change in practice was August 25, 2006. Thus the instant petition must be reviewed under the revised practice and the instant application is ineligible.

The petition appears on its face to have been filed without recognition of the August 25, 2006 policy change to the petition to make special program. The changes to the program are substantial. A copy of Federal Register on June 26, 2006 (71 Fed. Reg. 36323) is being attached to the mailed decision for petitioner's review. Further guidance may be found at www.USPTO.gov under the accelerated examination link.

For the above-stated reasons, the petition is **DENIED**. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to J. Harrison, TC 3700 Special Program Examiner, at (571) 272-4449.

J. Harrison
Special Program Examiner
Technology Center 3700

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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Girish J. Kotwal	: DECISION ON REQUEST FOR
Patent Number	: 7638481	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/570,402	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **672** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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KING & SPALDING, LLP
P.O. BOX 889
BELMONT, CA 94002-0889

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OFFICE OF PETITIONS

In re Application of :
Gregory DE CRESCENZO, et al. :
Application No. 10/570,412 :
Filed: November 21, 2006 :
Attorney Docket No. **11405-1** :

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 20, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **KING & SPALDING, LLP** has been revoked by the assignee of the patent application on January 21, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed 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: **NATIONAL RESEARCH COUNCIL OF CANADA**
1200 MONTREAL ROAD, BLDG M-58, ROOM EG12
OTTAWA, ONTARIO, K1A 0R6
CANADA

1 7 OCT 2007

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HAYNES AND BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS, TX 75202-3789

In re Application of SHUSTER et al	:	
U.S. Application No.: 10/570,417	:	
PCT Application No.: PCT/US2004/028887	:	DECISION
Int. Filing Date: 07 September 2004	:	
Priority Date Claimed: 05 September 2003	:	
Attorney Docket No.: 25791.304.10	:	
For: EXPANDABLE TUBULAR	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.182" filed 28 August 2007.

BACKGROUND

On 07 September 2004, applicant filed international application PCT/US2004/028887, which claimed priority of an earlier United States application filed 05 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 06 March 2006 (05 March 2006 was a Sunday).

On 02 March 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), a substitute specification, and a purported declaration.

On 11 September 2006, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

On 28 August 2007, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

A review of international application PCT/US2004/028887 reveals that the application contained 919 claims. A proper amendment reducing the number of claims was never submitted in the international application.

MPEP 1893.01(c) states in relevant part,

> A preliminary amendment accompanying the initial national stage submission under 35 U.S.C. 371 that cancels claims and/or eliminates multiple dependent

> claims will be effective to reduce the number of claims to be considered in calculating extra claim fees required under 37 CFR 1.492**>(d)-(e)< and/or eliminate the multiple dependent claim fee required under 37 CFR 1.492*>(f)<. A subsequently filed amendment canceling claims and/or eliminating multiple dependent claims will not entitle applicant to a refund of fees previously paid. See MPEP § 607 and § 608. (Emphasis added.)

In the present case, the initial national stage submission on 02 March 2006 did not include a proper preliminary amendment. However, it is apparent from the papers filed 02 March 2006 that applicant sought to reduce the number of claims for examination at the time of national stage entry. Specifically, the substitute specification contained a listing of 38 claims, rather than the 919 claims contained in the international application. Furthermore, the transmittal letter (Form PTO-1390) contained a payment calculation based on the presence of 38 claims as opposed to 919 claims. A proper preliminary amendment was filed with the present petition, reducing the total number of claims to 38. Because of applicant's intent to reduce the number of claims for examination and because the fees due for the presence of 919 claims at the time of the initial national stage submission would not be remotely commensurate with number of claims that remain for examination, justice in the present case requires waiver of the requirement that a preliminary amendment must accompany the initial national stage papers in order to reduce the number of claims to be considered in calculating extra claim fees.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

A review of the purported declaration filed 02 March 2006 reveals that it is not in compliance with 37 CFR 1.497 (a)(2)[1] and (a)(4).[2] Accordingly, the Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 11 September 2006 is hereby VACATED.

The application is being forwarded to the DO/EO/US for processing in accordance with this decision, including preparation and mailing of a Notification of Defective Response (Form PCT/DO/EO/916), which should indicate that the declaration filed 02 March 2006 is not in compliance with 37 CFR 1.497 (a)(2) and (a)(4).

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

10/17/2007 SBASHEIR 00000005 081394 10570417
Sale Ref: 00000005 DA#: 081394 10570417
01 FC:1462 400.00 DA

[1] The first page of the declaration appears to be missing.
[2] Applicant is advised that the oath or declaration must properly identify the application to which it is directed. See MPEP 602, Section VI. Identification of Application.

12 MAY 2006

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EGBERT LAW OFFICES
412 MAIN STREET, 7TH FLOOR
HOUSTON TX 77002

In re Application of PELLEGRIN, Yvon et al. Application No.: 10/570,450 PCT No.: PCT/EP04/51612 Int. Filing Date: 27 July 2004 Priority Date: 28 July 2003 Docket No.: 1512-80 For: CONVERTIBLE PAD SUPPORT FOR RECEIVING AT LEAST TWO PADS OF DIFFERENT DIMENSIONS	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 02 March 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 submitting the search fee, examination fee or oath or declaration later than 30 months will be charged to deposit account no. 08-0879, 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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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

COPY MAILED
NOV 2 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Tiina Immonen, et al.	:	
Application No. 10/570,460	:	DECISION ON PETITION
Filed: June 15, 2006	:	TO WITHDRAW
Attorney Docket No. LCTD-0111	:	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 23, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Woodcock Washburn, LLP has been revoked by the assignee of the patent application on September 8, 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ARENT FOX PLLC
1050 CONNECTICUT AVENUE, NW
SUITE 400
WASHINGTON, DC 20036

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
10/570,460	06/15/2006	Tiina Immonen	LCTD-0111

CONFIRMATION NO. 3613

OC000000021278772

OC000000021278772

23377
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Date Mailed: 11/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/08/2006.

- 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).

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

06 JUL 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

D. Bruce Prout
Christie, Parker & Hale, LLP
P.O. Box 7068
Pasadena, CA 91109-7068

In re Application of	:	
CHEN, et al.	:	DECISION ON PETITION
Serial No.: 10/570,477	:	
PCT No.: PCT/CN04/01015	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 02 September 2004	:	
Priority Date: 02 September 2003	:	
Atty Docket No.: 57285/D587	:	
For: A METHOD FOR CHOOSING THE TRANS-MISSION PATH OF REAL-TIME TRAFFIC DATA	:	

This decision is in response to applicant's petition under 37 C.F.R. § 1.47 filed 11 May 2007 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor Shaoshuai Sui.

BACKGROUND

On 02 September 2004, applicant filed international application PCT/CN04/01015 which claimed priority to an earlier application filed 02 September 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 March 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 02 March 2006.

On 01 March 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 information disclosure statement.

On 12 January 2007, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an 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 instructed to provide an English translation of the international application as filed. 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 May 2007, applicant filed the present petition under 37 CFR 1.47(a) accompanied by payment of a two-month extension of time fee of $450.00.

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 items1 and 3.

As to item (1), applicant has provided a petition fee payment of $130.00. Applicant is advised that the petition fee for a petition filed under 37 CFR1.47 is $200.00. As authorized, the $70.00 difference will be charged to deposit account number 03-1728.

Regarding item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

> Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature."
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47... The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as Internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should include a statement of facts. It is important that the statement contain facts as opposed to conclusions.

In support of the petition applicant has included a declaration from Rui Liu's detailing the mailing of a set of application papers to the non-signing inventor. However, these papers were returned as undeliverable. Therefore, the silence of the inventor cannot be interpreted as a refusal to sign. Instead, applicant must show that a diligent effort has been made to locate Mr.

Siu. Applicant has not included any documentary evidence to support the contention that the inventor cannot be located. The declaration merely states that "I have investigated and am unable to locate Mr. Sui." As shown above, documentary evidence is necessary for proceeding pursuant to 37 CFR 1.47.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 571-272-3294
Fax: 571-273-0459

07/06/2007 SBASHEIR 00000002 031728 10570477
Sale Ref: 00000002 DA#: 031728 10570477
01 FC:1463 70.00 DA 130.00 OP

2 8 SEP 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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D. Bruce Prout
Christie, Parker & Hale, LLP
P.O. Box 7068
Pasadena, CA 91109-7068

In re Application of	:	
CHEN, et al.	:	DECISION ON RENEWED
Serial No.: 10/570,477	:	
PCT No.: PCT/CN04/01015	:	PETITION UNDER
Int. Filing Date: 02 September 2004	:	
Priority Date: 02 September 2003	:	37 CFR 1.47(a)
Atty Docket No.: 57285/D587	:	
For: A METHOD FOR CHOOSING THE TRANS-MISSION PATH OF REAL-TIME TRAFFIC DATA	:	

This decision is in response to applicant's "Response to Decision on Petition under 37 CFR 1.47(a)" filed 06 September 2007 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor Shaoshuai Sui.

BACKGROUND

On 06 July 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor Shaoshuai Sui. Applicant was afforded two months to file any request for reconsideration.

On 06 September 2007, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

As detailed in the decision mailed 06 July 2007, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items 1, 3 and 4.

With the filing of the present petition, declaration of facts signed by Ms. Rui Liu and supporting documentation, applicant has made a sufficient showing of diligent effort to locate the non-signing inventor and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons stated above, applicant's renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 02 September 2004 under 35 U.S.C. 363, and will be given a date of **11 May 2007** under 35 U.S.C. 371 (c).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known addresses of record.

A notice of the filing of the application under 37 CFR 1.47(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

02 MAY 2006

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HOEKENDIJK & LYNCH, LLP
P.O. BOX 4787
BURLINGAME CA 94011-4787

In re Application of	:	
CLAUSON	:	
Application No.: 10/570,479	:	DECISION ON
PCT No.: PCT/US04/22569	:	
Int. Filing Date: 12 July 2004	:	PETITION UNDER
Priority Date: 14 July 2003	:	
Attorney Docket No.: 017003	:	37 CFR 1.137(b)
For: METHODS AND DEVICES FOR ALTERING	:	
THE TRANSMISSION RATIO OF A DRIVE SYSTEM	:	

This decision is in response to applicants' submission filed 01 March 2006.

BACKGROUND

On 12 July 2004, applicants filed international application PCT/US04/22569 which designated the U.S. and claimed a priority date of 14 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 thirty-month period for paying the basic national fee in the United States expired at midnight on 17 January 2006 (14 January 2006 being a Saturday and 16 January 2006 being a Federal holiday).

On 01 March 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, the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage, an assertion of small entity status, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 01 March 2006.

As to item (2), applicant submitted the petition fee on 01 March 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).

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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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

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OFFICE OF PETITIONS

In re Application of

BARDACHENKO, Vitaliy et al.
Application No. 10/570,480
Filed: July 11, 2007
Attorney Docket No. **5616VB-1**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Brian Ignat on behalf of all attorneys of record who are associated with customer No. 22442. All attorneys/agents associated with the Customer Number 22442 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 Vitaliy Bardachenko at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **VITALIY BARDACHENKO**
UL. ENTUZIASTOVE 3/1-127
KIEV 02154
UKRAINE

cc: **ANDREI BARDACHENKO**
18 VASILKOVSKA STREET
APT. 57
KIEV 03040
UKRAINE

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

MAR 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Hitoshi Aoyama	:	
Application No. 10/570,495	:	DECISION GRANTING PETITION
Filed: March 3, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 02287.0380	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 6, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 30, 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 regard 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 2874 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and drawings.

/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.*

12 APR 2006

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Thomas J. Kowalski
Frommer Lawrence & Huag, LLP
745 Fifth Avenue
New York, New York 10151

In re Application of HUANG et al. Application No.: 10/570,512 PCT No.: PCT/US03/33112 Int. Filing Date: 17 October 2003 Priority Date: 18 October 2002 Attorney Docket No.: 678502-2001.1 For: METHODS AND COMPOSITIONS FOR IMMUNIZATION AGAINST HIV	: : : : : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 01 March 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that 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
Facsimile: 571-273-0459

02 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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DLA PIPER RUDNICK GRAY CARY US LLP
ATTN: PATENT GROUP
1200 NINETEENTH STREET, NW
WASHINGTON DC 20036

In re Application of	:	
BAILEY	:	
Application No.: 10/570,519	:	DECISION ON
PCT No.: PCT/US04/24877	:	
Int. Filing Date: 02 August 2004	:	PETITION UNDER
Priority Date: 01 August 2003	:	
Attorney Docket No.: 4019-002NATL	:	37 CFR 1.137(b)
For: INTELLIGENT FLOOR MAT	:	

This decision is in response to applicants' submission filed 03 March 2006.

BACKGROUND

On 02 August 2004, applicant filed international application PCT/US04/24877 which designated the U.S. and claimed a priority date of 01 August 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 thirty-month period for paying the basic national fee in the United States expired at midnight on 01 February 2006.

On 03 March 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 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 03 March 2006.

As to item (2), applicant submitted the petition fee on 03 March 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.

The declaration of the inventor filed 03 March 2006 is in compliance with 37 CFR 1.497(a)-(b). The surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage has been charged to Deposit Account 50-1442.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

12 MAY 2006

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DAVIS & BUJOLD, P.L.L.C.
FOURTH FLOOR
500 N. COMMERCIAL STREET
MANCHESTER NH 03101-1151

In re Application of	:	
SKRYABIN, Igor Lvovich et al.	:	
Application No.: 10/570,530	:	DECISION
PCT No.: PCT/AU04/00689	:	
Int. Filing Date: 21 May 2004	:	ON PETITION UNDER
Priority Date: 21 May 2003	:	
Docket No.: GRIHAC P46AUS	:	37 CFR 1.137(b)
For: COMBINED PHOTOELECTROCHEMICAL	:	
CELL AND CAPACITOR	:	

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 03 March 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.

Applicants supplied a Rule 4.17 declaration during the international phase. The fee for submitting the search fee, examination fee or oath or declaration later than 30 months will be charged to deposit account no. 04-0213, 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 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of 03 March 2006.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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27 OCT 2006

DAVIS & BUJOLD, P.L.L.C.
FOURTH FLOOR
500 N. COMMERCIAL STREET
MANCHESTER NH 03101-1151

In re Application of	:	
SKRYABIN, Igor Lvovich et al.	:	
Application No.: 10/570,530	:	DECISION
PCT No.: PCT/AU04/00689	:	
Int. Filing Date: 21 May 2004	:	ON PETITION UNDER
Priority Date: 21 May 2003	:	
Docket No.: GRIHAC P46AUS	:	37 CFR 1.47(a)
For: COMBINED PHOTOELECTROCHEMICAL	:	
CELL AND CAPACITOR	:	

This decision is in response to "Petition By Joint Inventor(s) Filing On Behalf of Other Joint Inventor(s) Who Refuse(s) to Join In Application or Cannot Be Reached," filed 17 July 2006.

As indicated in the Decision On Petition Under 37 CFR 1.137(b), mailed 15 May 2006, applicants supplied a Rule 4.17 declaration during the international phase in compliance with 37 CFR 1.497(a)-(b). An additional declaration in compliance with 37 CFR 1.497(a)-(b) is not required. The fee for the petition under 37 CFR 1.47(a) will be credited to deposit account no. 04-0213, as authorized.

For the reasons discussed above, the petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

Replin. Ket: 10/27/2006 SBASHEIR 0011340400
DA#:040213 Name/Number:10570530
FC: 9204 $200.00 CR

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13 JUL 2007

DAVIS & BUJOLD, P.L.L.C.
112 PLEASANT STREET
CONCORD, NH 03301

In re Application of	:	
SKRYABIN, Lvovich Igor et al.	:	
Application No.: 10/570,530	:	DECISION ON
PCT No.: PCT/AU04/00689	:	
International Filing Date: 21 May 2004	:	PETITION
Priority Date: 21 May 2003	:	
Attorney's Docket No.: GRIHAC P46AUS	:	UNDER 37 C.F.R. 1.182
For: Combined Photoelectrochemical Cell And Capacitor	:	

This decision is in response to applicant's "Petition Under 37 C.F.R. 1.182" filed with the United States Patent and Trademark Office on 21 February 2007 requesting the substitution of Page 2 of the "Statement of Facts" filed on 17 July 2006 with the "Petition By Joint Inventor(s) Filing On Behalf Of Other Joint Inventor(s) Who Refuse(s) to Join In Application or Cannot Be Reached." The petition under 37 CFR 1.182 is **DISMISSED**.

BACKGROUND

On 21 May 2004, applicants filed international application PCT/AU04/00689, claiming a priority date of 21 May 2003. The thirty-month for paying the basic national fee in the United States expired at midnight on 21 November 2005.

On 03 March 2006, applicants filed a "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" including, *inter alia*, the petition fee, a transmittal letter for entry into the national stage in the United States, the requisite basic national fee, a declaration and the surcharge for late filing of the declaration.

On 12 May 2006, the Office mailed a decision granting applicants' "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)"

On 30 June 2006, the Office mailed a Notification of Acceptance (PCT/DO/EO/903) indicating that the application has a date of 03 March 2006 under 35 USC 371 (c)(1), (c)(2) and (c)(4).

On 17 July 2006, applicants filed a "Petition By Joint Inventor(s) Filing On Behalf Of Other Joint Inventor(s) Who Refuse(s) to Join In Application or Cannot Be Reached," including a "Statement of Facts" indicating that inventor Igor Lvovich Skryabin refuses to sign the declaration.

On 27 October 2006, the Office mailed a decision dismissing as moot applicants' "Petition By Joint Inventor(s) Filing On Behalf Of Other Joint Inventor(s) Who Refuse(s) to Join In Application or Cannot Be Reached" because applicants supplied a declaration under PCT Rule 4.17(iv) during the international phase. The decision concluded that an additional declaration in compliance with 37 CFR 1.497(a)-(b) was not required.

On 20 February 2007, inventor Igor Lvovich Skryabin filed a letter in the instant application explaining that the "Statement of Facts" filed by applicants on 27 October 2006 was damaging to his reputation because it included the following statement: " Igor Skryabin was dismissed from the assignee company Sustainable Technologies International Pty Ltd. in about November 2005 due to unacceptable work performance." The letter by inventor Igor Lvovich Skryabin detailed his position that his "work performance was at no stage unacceptable" and that he wishes the letter to be inserted in the file in order to "balance the facts" so that it may be "available for public inspection and scrutiny."

On 21 February 2007, applicants filed the instant petition requesting the substitution of Page 2 of the "Statement of Facts" filed on 17 July 2006 with the "Petition By Joint Inventor(s) Filing On Behalf Of Other Joint Inventor(s) Who Refuse(s) to Join In Application or Cannot Be Reached," with a newly submitted Page 2.

DISCUSSION

A review of the newly submitted Page 2 indicates that the following statement, "Igor Skryabin was dismissed from the assignee company Sustainable Technologies International Pty Ltd. in about November 2005 due to unacceptable work performance," has been changed to delete the portion, "due to unacceptable work performance." However, even if Page 2 would be replaced with the newly submitted Page 2, the deleted portion would still be of record in the instant application because the entire statement is explicitly quoted in the letter submitted by inventor Igor Lvovich Skryabin.

CONCLUSION

For the reasons stated above, the petition under 37 C.F.R. 1.182 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182." No additional petition fee is required.

This application is being forwarded to Art Unit 1753 for examination on the merits.

Bryan Lin for

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3297
Facsimile: (571) 273-0459

Stefan Staicovici

Stefan Staicovici
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-1208

CC:

Dr. Igor Skryabin
76 Schlich St
Yarralumla ACT 2600
Australia

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CST

November 18, 2009

In re application of Igor Skryabin et al Serial No. 10/570,530 Filed: March 3, 2006 For: COMBINED PHOTOELECTROCHEMICAL CELL AND CAPACITOR	: : : : : : :	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d) to make the above-identified application special, filed November 10, 2009.

The request and petition are **DISMISSED** as moot. Specifically, a restriction requirement was mailed in this application on September 11, 2009.

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 the allowable/patentable claim(s) from the IPAU application(s);

(3) Applicant must ensure that 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);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office action from each of the IPAU application(s) containing the allowable claims that are the basis for the request;

(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:

(4) Examination of the U.S. application has begun. Specifically, note that a restriction requirement was mailed on September 11, 2009.

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

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Patent No. : 7,427,766 B2
Ser. No. : 10/570,535
Inventor(s) : Jonkers et al.
Issued : Sep. 23, 2008
Title : METHOD AND APPARATUS FOR PRODUCING EXTREME ULTRAVIOLET RADIATION OR SOFT X-RAY RADIATION
Docket No. : DE030370US1
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **756-1542** or (703) 756-1814

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/570,548	03/03/2006	Wolfgang Mueller	0260325002	4866

22428 7590 12/09/2008
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER
NEGRON, ISMAEL

ART UNIT	PAPER NUMBER
2885	

MAIL DATE	DELIVERY MODE
12/09/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Foley and Lardner LLP
Suite 500
3000 K Street NW
Washington, DC 20007

In re Application of: MUELLER et al. Application Serial No.: 10/570,548 Filed: March 3, 2006 For: Vehicle Fitting with Light Guide (As amended)	**DECISION ON PETITION TO WITHDRAW THE FINALITY OF AN OFFICE ACTION** ***37 CFR § 1.181***

This is a response to the petition under 37 C.F.R. § 1.181 filed October 30, 2008 to withdraw the finality of an Office action in the above-identified patent application. The petition is being treated as a request for reconsideration of the final Office action of July 30, 2008.

Accordingly, the petition is **GRANTED.**

This petition asserts that the Office action mailed on July 30, 2008, was prematurely made final and requests that the finality of the Office action to be withdrawn.

A review of the application record indicates that the examiner had inadvertently made the Office action of July 30, 2008 final. Accordingly, the request is granted and the finality of the Office action of July 30, 2008 is hereby withdrawn.

The amendment filed October 3, 2008 will be entered as an amendment filed under 37 C.F.R. § 1.111 and an Office action will be issued in due course.

Jong-Suk (James) Lee
Supervisory Patent Examiner
Art Unit 2885

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CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD
SUITE 420
MELVILLE, NY 11747

Mail Date: 04/20/2010

Applicant	: Benjamin Chu	: DECISION ON REQUEST FOR
Patent Number	: 7652084	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/570,553	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/03/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **853** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

Mail Date: 04/20/2010

Applicant	: Samuel J. Danishefsky	: DECISION ON REQUEST FOR
Patent Number	: 7635750	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/570,556	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **414** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/20/2010

Applicant	: Akitoshi Mori	: DECISION ON REQUEST FOR
Patent Number	: 7623652	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/570,559	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/03/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **637** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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06 SEP 2007

45735
SENNIGER POWERS (SMX)
One Metropolitan Square
16th Floor
St. Louis, MO 63102

In re Application of CENDAK *et al* U.S. Application No.: 10/570,575 PCT No.: PCT/US04/28958 Int. Filing Date: 03 September 2004 Priority Date: 03 September 2003 Attorney Docket No.: SMX 2025.2 (2002-008P2 (PCT/US) For: PLATINUM-NICKEL-IRON FUEL CELL CATALYST	**DECISION ON PAPERS FILED UNDER 37 CFR 1.42**

This is a decision on the declaration filed on 04 May 2007 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 04 December 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) and surcharge fee must be provided. Applicants were given two months to respond.

On 04 May 2006, applicants submitted a declaration signed by eleven of the twelve named inventors and the legal representative of a deceased inventor along with a three-month extension and fee.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The citizenship, residences and addresses of all inventors (including the deceased inventor) are listed on the declaration pursuant to 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1). Moreover, the citizenship, residence and address of the legal representative of the deceased inventor is also listed on the declaration as required by

10/570,575

37 CFR 1.497(b)(2).

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 03 September 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 04 May 2007.

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

1 4 MAR 2008

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45735
SENNIGER POWERS (SMX)
One Metropolitan Square
16th Floor
St. Louis, MO 63102

In re Application of CENDAK *et al* U.S. Application No.: 10/570,575 PCT No.: PCT/US04/28958 Int. Filing Date: 03 September 2004 Priority Date: 03 September 2003 Attorney Docket No.: SMX 2025.2 (2002-008P2 (PCT/US) For: PLATINUM-NICKEL-IRON FUEL CELL CATALYST	:	**DECISION**

This decision is in response to the declaration filed 19 November 2007 which is treated as a renewed petition under 37 CFR 1.42.

BACKGROUND

On 04 May 2006, applicants submitted a declaration signed by eleven of the twelve named inventors and the legal representative of a deceased inventor.

On 06 September 2007, a decision accepting the declaration under 37 CFR 1.42 was mailed.

On 04 October 2007, a communication vacating the 6 September 2007 decision was mailed.

On 19 November 2007, applicant resubmitted the declaration signed by the inventors and the legal representative of a deceased inventor.

DISCUSSION

The declaration filed 04 May 2006 was held not to be in compliance with 37 CFR 1.497(a) and (b) as all pages presented to the inventors were not submitted. In response, applicants submitted a complete copy of the declaration signed by eleven of the twelve named inventors and by the legal administrator for deceased co-inventor Keith James Cendak.

As previously indicated on the 06 September 2007 decision, the citizenship, residences and addresses of all inventors (including the deceased inventor) are listed

on the declaration pursuant to 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1). Moreover, the citizenship, residence and address of the legal representative of the deceased inventor are also listed on the declaration as required by 37 CFR 1.497(b)(2).

This declaration complies with 37 CFR 1.497(a) and (b).

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 03 September 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 19 November 2007.

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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31 AUG 2007

JENNIFER H. HAMILTON
THE ECLIPSE GROUP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

In re Application of CHANSARKAR et al	:	
U.S. Application No.: 10/570,578	:	
PCT Application No.: PCT/US2004/028542	:	
Int. Filing Date: 02 September 2004	:	
Priority Date Claimed: 02 September 2003	:	DECISION
Attorney Docket No.: ST02042USU (281-US-U1)	:	
For: CONTROL AND FEATURES FOR SATELLITE POSITIONING SYSTEM RECEIVERS	:	

This is in response to applicant's "Petition Under 37 CFR § 1.47(a)" filed 13 August 2007.

BACKGROUND

On 02 September 2004, applicant filed international application PCT/US2004/028542, which claimed priority of an earlier United States application filed 02 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 02 March 2006.

On 01 March 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 13 February 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 13 August 2007, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, the declaration filed with the petition is improper. Specifically, the signature of the ninth inventor appears to be missing. Furthermore, the declaration lacks the signature of the seventh inventor who, according to the affidavit of Mariana Paula Noli, neither refuses to sign nor cannot be located. Additionally, the declaration is an unacceptable composite document consisting of one each of pages 1 and 5, three of page 2, four of page 3, and two of page 4. It is not proper to combine individual signature pages of different executed declarations into a single document. Applicant must submit either: (1) a single complete declaration which is presented to and executed by each of the available inventors or (2) multiple complete declarations, wherein each available inventor is presented with and executes at least one of the multiple complete declarations.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that inventors Paul Underbrink and Robert Harvey refuse to sign the application papers. As stated above, the affidavit of Mariana Paula Noli states that petitioner has been informed that Robert Harvey has supplied the requested documents. Thus, it cannot be concluded that Mr. Harvey refuses to sign. With regard to Mr. Underbrink, petitioner has adequately demonstrated that a bona fide attempt was made to present a copy of the applications papers for signature (see paragraph 8 of Noli's affidavit and Exhibit B). Furthermore, petitioner

has sufficiently illustrated Mr. Underbrink's refusal to sign. Specifically, Mr. Underbrink's failure to respond to the letter delivered to him constitutes a constructive refusal to cooperate. Thus, it can be concluded with reasonable certainty that Mr. Underbrink refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). 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

0 1 FEB 2008

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JENNIFER H. HAMILTON
THE ECLIPSE GROUP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

In re Application of CHANSARKAR et al	:	
U.S. Application No.: 10/570,578	:	
PCT Application No.: PCT/US2004/028542	:	
Int. Filing Date: 02 September 2004	:	
Priority Date Claimed: 02 September 2003	:	DECISION
Attorney Docket No.: ST02042USU (281-US-U1)	:	
For: CONTROL AND FEATURES FOR	:	
SATELLITE POSITIONING SYSTEM	:	
RECEIVERS	:	

This is in response to applicant's "Renewed Petition Under 37 CFR § 1.47(a)" filed 28 December 2007.

BACKGROUND

On 02 September 2004, applicant filed international application PCT/US2004/028542, which claimed priority of an earlier United States application filed 02 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 02 March 2006.

On 01 March 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 13 February 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 13 August 2007, applicant filed a petition under 37 CFR 1.47(a).

On 31 August 2007, this Office mailed a decision dismissing the 13 August 2007 petition.

On 28 December 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 declarations filed with the renewed petition are improper with regard to inventors Charles Norman, Peter Michali, and Gengsheng Zhang. In particular, the declarations of inventors Norman and Zhang are improper composite documents. It is not acceptable to combine the signature page from one copy of the declaration with pages from another copy of the declaration to form the document for submission. Applicant must supply a copy of the entire document that is executed by the inventor. With regard to inventor Michali, the declaration contains non-initialed and non-dated alterations. See 37 CFR 1.52(c) and MPEP 602.01.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

11 APR 2008

JENNIFER H. HAMILTON
THE ECLIPSE GROUP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

In re Application of CHANSARKAR et al	:	
U.S. Application No.: 10/570,578	:	
PCT Application No.: PCT/US2004/028542	:	
Int. Filing Date: 02 September 2004	:	
Priority Date Claimed: 02 September 2003	:	DECISION
Attorney Docket No.: ST02042USU (281-US-U1)	:	
For: CONTROL AND FEATURES FOR	:	
SATELLITE POSITIONING SYSTEM	:	
RECEIVERS	:	

This is in response to applicant's "Renewed Petition Under 37 CFR § 1.47(a)" filed 01 April 2008.

BACKGROUND

On 02 September 2004, applicant filed international application PCT/US2004/028542, which claimed priority of an earlier United States application filed 02 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 02 March 2006.

On 01 March 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 13 February 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 13 August 2007, applicant filed a petition under 37 CFR 1.47(a).

On 31 August 2007, this Office mailed a decision dismissing the 13 August 2007 petition.

On 28 December 2007, applicant filed a renewed petition under 37 CFR 1.47(a).

On 01 February 2008, this Office mailed a decision dismissing the 28 December 2007 renewed petition.

On 01 April 2008, applicant filed the present second 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 declarations filed with the renewed petition are improper with regard to inventors Charles Norman and Gengsheng Zhang. In particular, the declarations of inventors Norman and Zhang are improper composite documents. The present renewed petition states that the declarations executed by Charles Norman and Gengsheng Zhang and filed on 28 December 2007 are not improper composite documents.

However, page 2 of the declaration purportedly executed by Charles Norman has dark photocopy marks which are not present on the other declaration pages. Moreover, the text of page 2 appears to be related to an assignment agreement, which suggests that page 2 was taken from a totally different document and combined with the other declarations pages.

Furthermore, page 4 of the declaration purportedly executed by Gengsheng Zhang appears to have been transmitted twice via facsimile, while the other declaration pages appear to have been transmitted once via facsimile. For example, page 4 of the declaration contains markings "07/12/2007 19:20 4084670420 SIRF TECHNOLOGY PAGE 03" which are not present on the other declaration pages. This suggests that Gengsheng Zhang may have returned only page 4 of the declaration and that page 4 was later combined with the other declaration pages. If Gengsheng Zhang returned the complete declaration, then the complete declaration (or a true copy thereof) must be submitted.

It is not acceptable to combine the signature page from one copy of the declaration with pages from another copy of the declaration to form the document for submission. Applicant must supply a copy of the entire document that is executed by the inventor.

CONCLUSION

For the reasons above, the second renewed petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available 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.

BryanLin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

2 5 JUN 2008

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

JENNIFER H. HAMILTON
THE ECLIPSE GROUP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

In re Application of CHANSARKAR et al	:	
U.S. Application No.: 10/570,578	:	
PCT Application No.: PCT/US2004/028542	:	
Int. Filing Date: 02 September 2004	:	
Priority Date Claimed: 02 September 2003	:	DECISION
Attorney Docket No.: ST02042USU (281-US-U1)	:	
For: CONTROL AND FEATURES FOR	:	
SATELLITE POSITIONING SYSTEM	:	
RECEIVERS	:	

This is in response to applicant's "Renewed Petition Under 37 CFR § 1.47(a)" filed 11 June 2008.

BACKGROUND

On 02 September 2004, applicant filed international application PCT/US2004/028542, which claimed priority of an earlier United States application filed 02 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 02 March 2006.

On 01 March 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 13 February 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 13 August 2007, applicant filed a petition under 37 CFR 1.47(a).

On 31 August 2007, this Office mailed a decision dismissing the 13 August 2007 petition.

On 28 December 2007, applicant filed a renewed petition under 37 CFR 1.47(a).

On 01 February 2008, this Office mailed a decision dismissing the 28 December 2007 renewed petition.

On 01 April 2008, applicant filed a second renewed petition under 37 CFR 1.47(a).

On 11 April 2008, this Office mailed a decision dismissing the 01 April 2008 renewed petition.

On 11 June 2008, applicant filed the present third renewed petition under 37 CFR 1.47(a).

DISCUSSION

The renewed petition states that inventors Paul Underbrink and Charles Norman refuse 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.

Paul Underbrink

Petitioner has previously satisfied items (2), (3), and (4) above.

With regard to item (1) above, petitioner has submitted declarations executed by the available inventors, each on his/her own behalf and on behalf of the nonsigning inventors.

Charles Norman

With regard to item (2) above, petitioner has submitted declarations executed by the available inventors, each on his/her own behalf and on behalf of the nonsigning inventors.

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.

In the present case, the petition does not sufficiently establish that a bona fide attempt was made to present a complete copy of the application papers (including specification, claims, drawings, and oath/declaration) to Mr. Norman for signature as required in MPEP 409.03(d). Although the letter dated 29 April 2008 indicates that declaration and assignment documents were sent to Mr. Norman, there is no indication that the specification, claims, and drawings were either included in the 29 April 2008 letter or forwarded to Mr. Norman at an earlier date. Thus, it cannot be concluded at the present time that Mr. Norman refuses to join in the application.

With regard to item (3) above, the requisite fee has been provided.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the third renewed petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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ALEXANDRIA, VA 22313-1450
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16 SEP 2008

JENNIFER H. HAMILTON
THE ECLIPSE GROUP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

In re Application of CHANSARKAR et al	:	
U.S. Application No.: 10/570,578	:	
PCT Application No.: PCT/US2004/028542	:	
Int. Filing Date: 02 September 2004	:	
Priority Date Claimed: 02 September 2003	:	DECISION
Attorney Docket No.: ST02042USU (281-US-U1)	:	
For: CONTROL AND FEATURES FOR	:	
SATELLITE POSITIONING SYSTEM	:	
RECEIVERS	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.47(a)" filed 25 August 2008.

BACKGROUND

On 02 September 2004, applicant filed international application PCT/US2004/028542, which claimed priority of an earlier United States application filed 02 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 02 March 2006.

On 01 March 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 13 February 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 13 August 2007, applicant filed a petition under 37 CFR 1.47(a).

On 31 August 2007, this Office mailed a decision dismissing the 13 August 2007 petition.

On 28 December 2007, applicant filed a renewed petition under 37 CFR 1.47(a).

On 01 February 2008, this Office mailed a decision dismissing the 28 December 2007 renewed petition.

On 01 April 2008, applicant filed a second renewed petition under 37 CFR 1.47(a).

On 11 April 2008, this Office mailed a decision dismissing the 01 April 2008 renewed petition.

On 11 June 2008, applicant filed a third renewed petition under 37 CFR 1.47(a).

On 25 June 2008, this Office mailed a decision dismissing the 11 June 2008 renewed petition.

On 25 August 2008, applicant filed the present fourth renewed petition under 37 CFR 1.47(a).

DISCUSSION

The renewed petition states that inventor Paul Underbrink refuses to sign the application papers and that previously nonsigning inventor Charles Norman has supplied a newly executed declaration.

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.

Paul Underbrink

Petitioner has previously satisfied items (1), (2), (3), and (4) above.

Charles Norman

The submission of a declaration executed by the previously nonsigning inventor is a proper reply to the decision mailed 25 June 2008.

CONCLUSION

For the reasons above, the fourth renewed petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 02 September 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 25 August 2008.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

16 SEP 2008

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paul Underbrink
25212 Calle del Lago
Lake Forest, CA 92606

In re Application of CHANSARKAR et al
U.S. Application No.: 10/570,578
PCT Application No.: PCT/US2004/028542
Int. Filing Date: 02 September 2004
Priority Date Claimed: 02 September 2003
For: CONTROL AND FEATURES FOR SATELLITE POSITIONING SYSTEM RECEIVERS

Dear Paul Underbrink:

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.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office
Telephone: 571-272-3303
Facsimile: 571-273-0459

JENNIFER H. HAMILTON
THE ECLIPSE GROUP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344
Attorney Docket No.: ST02042USU (281-US-U1)

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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

Oppedahl Patent Law Firm LLC (P&A)
P O Box 5940
Dillon, CO 80435-5940

Mail Date: 04/20/2010

Applicant	: Ralf Bobel	: DECISION ON REQUEST FOR
Patent Number	: 7633028	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/570,587	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/05/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

2 1 APR 2009

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ALEXANDRIA, VA 22313-1450
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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO, IL 60606-6357

In re Application of CROCKARD et al	:	
U.S. Application No.: 10/570,588	:	
PCT Application No.: PCT/GB2004/003773	:	DECISION
Int. Filing Date: 02 September 2004	:	
Priority Date Claimed: 03 September 2003	:	
Attorney Docket No.: 30986/40924	:	
For: DIAGNOSIS OF RISK OF BREAST CANCER	:	

This is in response to applicant's petition to withdraw a holding of abandonment under 37 CFR 1.181 filed 24 March 2009.

BACKGROUND

On 02 September 2004, applicant filed international application PCT/GB2004/003773, which claimed priority of an earlier United Kingdom application filed 03 September 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 17 March 2005. The thirty-month period for paying the basic national fee in the United States expired on 03 March 2006.

On 03 March 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 November 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497, a sequence listing in computer readable form, and a sequence listing statement must be filed.

On 22 January 2007, applicant filed an executed declaration, a sequence listing in computer readable form, and a sequence listing statement.

On 24 August 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the sequence listing in computer readable form filed 22 January 2007 was defective.

On 10 March 2009, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the present application is abandoned for failure to timely respond to the Notification of Defective Response.

On 24 March 2009, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

MPEP 711.03(c), Section I. A., "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action" states in relevant part,

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The present petition states that the Notification of Defective Response was not received, states that a search of the practitioner's records, including any file jacket or the equivalent, and the application contents, indicates that the Notification of Defective Response was not received, and includes a detailed statement describing the system used for recording an Office action received at the correspondence address of record and establishing that the docketing system is sufficiently reliable. However, the supplied docket record is insufficient. Petitioner must provide a copy of the master docket record for the practitioner's firm, listing all replies docketed for the due date for reply to the Notification of Defective Response. In other words, the master docket record should list all cases handled by the representative's firm, sorted by the due date for

reply.[1] If such a docket record is not available, the practitioner must so state and explain why such a docket record cannot be generated.

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
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

[1] Petitioner need only supply the sorted results corresponding to 24 September 2007.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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21 AUG 2009

MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO, IL 60606-6357

In re Application of CROCKARD et al	:	
U.S. Application No.: 10/570,588	:	
PCT Application No.: PCT/GB2004/003773	:	DECISION
Int. Filing Date: 02 September 2004	:	
Priority Date Claimed: 03 September 2003	:	
Attorney Docket No.: 30986/40924	:	
For: DIAGNOSIS OF RISK OF BREAST CANCER	:	

This is in response to applicant's renewed petition to withdraw a holding of abandonment under 37 CFR 1.181 filed 19 June 2009.

BACKGROUND

On 02 September 2004, applicant filed international application PCT/GB2004/003773, which claimed priority of an earlier United Kingdom application filed 03 September 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 17 March 2005. The thirty-month period for paying the basic national fee in the United States expired on 03 March 2006.

On 03 March 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 November 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497, a sequence listing in computer readable form, and a sequence listing statement must be filed.

On 22 January 2007, applicant filed an executed declaration, a sequence listing in computer readable form, and a sequence listing statement.

On 24 August 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the sequence listing in computer readable form filed 22 January 2007 was defective.

On 10 March 2009, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the present application is abandoned for failure to timely respond to the Notification of Defective Response.

On 24 March 2009, applicant filed a petition under 37 CFR 1.181.

On 21 April 2009, this Office mailed a decision dismissing the 24 March 2009 petition.

On 19 June 2009, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

MPEP 711.03(c), Section I. A., "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action" states in relevant part,

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has previously stated that the Notification of Defective Response was not received and that a search of the practitioner's records, including any file jacket or the equivalent, and the application contents, indicates that the Notification of Defective Response was not received. Petitioner also has previously provided a detailed statement describing the system used for recording an Office action received at the correspondence address of record and establishing

that the docketing system is sufficiently reliable. The present renewed petition is accompanied by a copy of the master docket record for the practitioner's firm, listing all replies docketed for the due date for reply to the Notification of Defective Response. Such docket record shows no entry for a reply to the Notification of Defective Response. Thus, it can be concluded with reasonable certainty that the Notification of Defective Response was never received.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.181 is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 10 March 2009 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 02 September 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 22 January 2007.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
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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10 APR 2008

01444
BROWDY AND NEIMARK, P.L.L.C.
624 Ninth Street, NW
Suite 300
Washington DC 20001-5303

In re Application of :
ABATE *et al* :
U.S. Application No.: 10/570,595 :
PCT No.: PCT/IT2003/000534 :
Int. Filing Date: 06 September 2003 : **DECISION**
Priority Date: None :
Attorney Docket No.: ABATE 2 :
For: AUTOMATED MULTI-FUNCTION :
DESK FOR USE IN A POST OFFICE :

This decision is in response to the "Petition to Correct Application Number on Transmittal Letter" filed on 07 March 2008 which is treated as a petition under 37 CFR 1.182.

BACKGROUND

On 06 March 2006, applicants filed a national stage application listing the international application number on the transmittal letter (Form PTO-1390) as PCT/IT2004/000534.

On 30 November 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt. The international application was listed as PCT/IT2004/000534.

On 07 March 2008, applicants filed a petition to change the underlying PCT application in the above-identified national stage application.

DISCUSSION

In the papers filed 17 September 2007, applicants petition to correct the PCT number to PCT/IT2003/000534. Applicants state that the transmittal letter had a typographical error incorrectly identified the underlying PCT application as PCT/IT2004/000534 rather than PCT/IT2003/000534.

Despite this error, petitioners argue that the national phase application as filed is sufficient to identify the correct international application number.

10/570,595

This request is treated as a petition under 37 CFR 1.182. The $400.00 petition fee has been paid.

A review of the above-captioned application file verifies that the wrong U.S. application number, PCT/IT2004/000534, was designated on the transmittal letter and preliminary amendment filed 06 March 2006.

Nonetheless, all other indications on the transmittal letter including the name of the first inventor, the title, and the international filing date correspond to PCT/IT2003/000534. In addition, the specification, drawings and claims and the amendment of the claims are for PCT/IT2003/000534. Moreover, the Application Data Sheet submitted with the application denotes the underlying international application as PCT/IT2003/000534.

As such, it is clear that the subject application was intended to be filed as the national stage of PCT/IT2003/000534. This is sufficient for a grantable petition.

CONCLUSION

For the reasons listed above, the petition under 37 CFR 1.182 is **GRANTED**.

The subject application is the national stage of PCT/IT2003/000534 filed 06 September 2003.

The Form PCT/DO/EO/903 and filing receipt mailed 30 November 2007 both contain erroneous PCT information and are hereby **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for the issuance of a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

24 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

William A. Blake
Jones, Tullar & Cooper, P.C.
P.O. Box 2266 Eads Station
Arlington, VA 22202

In re Application of
LEWIS, Aaron
Application No.: 10/570,602
PCT No.: PCT/US04/22302
Int. Filing Date: 02 August 2004
Priority Date: 03 August 2002
Attorney Docket No.: Lewis Correl
For: CORRELATING SPECTRAL POSITION OF CHEMICAL SPECIES ON A SUBSTRATE WITH MOLECULAR WEIGHT, STRUCTURE AND CHEMICAL REACTIVITY

DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 03 March 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that 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 is required.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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0 5 DEC 2008

William A. Blake
Jones Tullar Cooper PC
P.O. Box 2266 Eads Station
Arlington VA 22202

In re Application of	:	
LEWIS et al.	:	
U.S. Application No. 10/570,602	:	
PCT No.: PCT/US04/22302	:	
Int. Filing Date: 02 August 2004	:	
Priority Date: 03 August 2003	:	DECISION ON PETITION
Attorney Docket No.: Lewis Correl	:	
For: CORRELATING SPECTRAL POSITION OF CHEMICAL SPECIES ON A SUBSTRATE WITH MOLECULAR WEIGHT, STRUCTURE AND CHEMICAL REACTIVITY	:	

The petition to revive under 37 CFR 1.137(b) filed 14 November 2008 in the above-captioned application is hereby GRANTED as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the declaration and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

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Alexandria, VA 22313-1450
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2 3 MAY 2007

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of	:	
HIROAKA et al.	:	NOTIFICATION
Application No.: 10/570,609	:	
PCT No.: PCT/JP2004/006389	:	
Int. Filing Date: 12 May 2004	:	
Priority Date: 03 September 2003	:	
Attorney's Docket No.: 28704US0PCT	:	
For: METHOD FOR CONTINUOUS PRODUCTION	:	
OF FUNCTIONAL FILM	:	

This notification is in response to applicants' petition under 37 CFR 1.181 filed 13 February 2007.

BACKGROUND

On 12 May 2004, applicants filed international application PCT/JP2004/006389 which designated the U.S. and claimed a priority date of 03 September 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 March 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 03 March 2006.

On 03 March 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 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.

On 24 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 26 December 2006, applicants filed a submission which was accompanied by, *inter alia*, a declaration of inventors and a declaration of inventor Shyusei OHYA.

On 01 February 2007, a notification was mailed indicating that a proper petition under 37 CFR 1.182 is required in order to resolve the matter of inventor OHYA's name.

On 31 February 2007, applicants filed the instant petition under 37 CFR 1.182.

DISCUSSION

The petition fee has been paid. The statement of Shyusei OHYA filed 26 December 2006 is accepted. The declaration of inventors filed 26 December 2006 is in compliance with 37 CFR 1.497(a)-(b).

The statement included with the submission filed 13 February 2007 that the translation of the declaration is accurate satisfies 37 CFR 1.69(b).

CONCLUSION

For the above reasons, 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 **26 December 2006**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/570,615	03/03/2006	Werner Siol	285916US0PCT	9716

22850 7590 01/26/2010
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
METZMAIER, DANIEL S

ART UNIT	PAPER NUMBER
1796	

NOTIFICATION DATE	DELIVERY MODE
01/26/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

wk

Mailed: 1/26/10

In re application of	:	
Siol	:	DECISION ON
Serial No. 10/570,615	:	PETITION
Filed: March 3, 2006	:	
For: HYDROGEL		

This is a response to Applicants Petition To Suspend An Action For Cause filed January 10, 2010.

Applicant requests a three month suspension to allow applicant time to prepare a Rule 132 Declaration.

DECISION

The Petition is **GRANTED**.

/William Krynski/

William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering

Kirsten A. Gruneberg
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

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Alexandria, VA 22313-1450
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SNIDER & ASSOCIATES
P. O. BOX 27613
WASHINGTON, DC 20038-7613

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MAY 1 2 2008

OFFICE OF PETITIONS

In re Application of
SHOJI, et al.
Application No. 10/570,634
Filed: March 3, 2006
Attorney Docket No. **TAK-187-PCT**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 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 reason set forth in the request does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RALPH A. VOLPER**
DJP MANUFACTURING, INC.
37 SUNNYCREST DRIVE
BRICK, NJ 08724

2 6 MAR 2008

\United States Patent and Trademark Office

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Alexandria, VA 22313-1450
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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of	:	
Perori et al.	:	
Application No.: 10/570,656	:	
PCT No.: PCT/FR04/50418	:	
Int. Filing Date: 09 September 2004	:	DECISION
Priority Date: 12 September 2003	:	
Attorney Docket No.: 127255	:	
For: Secure Paper Comprising A Fiber	:	
Layer And An Electronic Chip	:	

This is in response to the "Petition To Withdraw Notification Of Abandonment" filed on 17 January 2008, which is being treated under 37 CFR 1.181.

BACKGROUND

This international application was filed on 09 September 2004, claimed an earliest priority date of 12 September 2003, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 24 March 2005. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 12 March 2006. On 06 March 2006, applicants filed *inter alia* the basic national fee.

On 24 October 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

On 03 May 2007, applicants filed a status inquiry.

On 11 January 2008, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements mailed on 24 October 2006.

DISCUSSION

Petitioner requests withdrawal of the holding of abandonment because a response allegedly was filed on 26 December 2006. Petitioner states in part that "A copy of the Response to Notification of Missing Requirements, executed Declaration, Transmittal of Power of Attorney, General Power of Attorney and a copy of the stamped Patent Office receipt are attached hereto." Inspection of the copy of the return postcard receipt which accompanies the petition reveals that it references the instant application number, that it itemizes a check in the amount of $130.00, a Response to Notification of Missing Requirements, a "copy of NOMR," a Declaration, a Transmittal of POA and a General POA, and that it is stamped as received by "OIPE" on "DEC 26 2006." MPEP 503 states in part that

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Following the policy described at MPEP 503, the copies of the documents received on17 January 2008 (accompanying the petition) and itemized on the postcard receipt, including the declaration document, are being regarded as copies of the respective documents (including the declaration) originally filed on 26 December 2006, and itemized on the postcard receipt. Review of the declaration reveals that it is acceptable for purposes of compliance with 37 CFR 1.497(a) and (b). It is noted that the records of the USPTO show that the surcharge was paid on 26 December 2006. Therefore, applicant is regarded as having timely complied with the requirements of the Notification of Missing Requirements mailed on 24 October 2006. Accordingly, the Notification of Abandonment mailed on 11 January 2008 is hereby **VACATED**.

DECISION

The petition is **GRANTED**.

This application is being returned to the Office of Patent Application Processing for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **26 December 2006.**

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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P.O. Box 1450
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Steven W. Weinrieb
LAW OFFICES OF STEVEN W. WEINRIEB
8717 COLD SPRING
POTOMAC MD 20854

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MAY 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Mino et al.	:	
Application No.: 10/570688	:	DECISION ON
Filing or 371(c) Date: 03/06/2006	:	PETITION AND
Title of Invention:	:	NOTICE OF
BULK MATERIAL CARGO CONTAINER	:	REQUIREMENT FOR
LINER WITH INTERNAL RESTRAINT	:	EXECUTED OATH/
SYSTEM FOR PREVENTING THE	:	DECLARATION
OUTWARD BULGING OF THE LINER	:	

This is a decision in response to the "Petition To Withdraw Holding of Abandonment Under 37 CFR 1.181," filed April 6, 2009.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed July 1, 2008. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned on October 2, 2008. A Notice of Abandonment was mailed February 4, 2009.

Petition under 37 CFR 1.181

Applicant files the present petition and avers that the Office action was mailed to the attorney's old address, and that a Change of Correspondence Address notice was filed on May 5, 2008. In support of this assertion, Applicant files a copy of the Change of Correspondence Address, and a copy of a return-receipt postcard acknowledging receipt by this Office of a Change of Correspondence Address on May 5, 2008.

Initially it is noted that the oath/declaration filed with the application on March 6, 2006 is unexecuted. A properly executed oath/declaration is required[1].

[1] It is noted that this Office mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 on October 30, 2006.

Applicable Law, Rules and MPEP

The applicable Rule, 37 CFR 1.33(a) states:

> (1) Prior to filing of § 1.63 oath or declaration by any of the inventors. If a § 1.63 oath or declaration has not been filed by any of the inventors, the correspondence address may be changed by the party who filed the application. If the application was filed by a patent practitioner, any other patent practitioner named in the transmittal papers may also change the correspondence address. Thus, the inventor(s), any patent practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address in that application under this paragraph.

In this instance, the application was filed by petitioner herein. As stated above, since no executed oath/declaration has been filed in the application, the correspondence address may be changed by the party who filed the application – petitioner herein.

Moreover, Petitioner has demonstrated that a Change of Correspondence Address was timely filed on May 5, 2008.

"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 items listed thereon by the PTO." MPEP § 503.

In view of the foregoing, the petition is granted.

The Change of Correspondence Address has been entered and made of record.

The application is being referred to the Patent Cooperation Treaty ("PCT") Operations Office for withdrawal of the previously mailed Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495, and for the mailing of a corrected Notice.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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MAR 23 2010

OFFICE OF PETITIONS

GREER, BURNS & CRAIN
300 S WACKER DR.
25TH FLOOR
CHICAGO IL 60606

In re Application of	:	
Claude POMMEREAU	:	
Application No. 10/570,705	:	DECISION ON PETITION
Filed: March 3, 2006	:	
Attorney Docket No. 160674707	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the publication fee on or before September 25, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed June 25, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 26, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $755 and Publication Fee of $300; (2) the petition fee of $810; and (3) a statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

29 JUN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EDWARDS ANGELL PALMER AND DODGE, LLP
P.O. BOX 55874
BOSTON, MA 02205

In re Application of FREITAG et al.	:
Application No.: 10/570,713	: DECISION ON PETITION
PCT No.: PCT/US04/29100	:
Int. Filing: 07 September 2004	: UNDER 37 CFR 1.47(a)
Priority Date: 04 September 2003	:
Attorney Docket No.: CPG 03-37 PM	:
For: RETAIL THEFT-DETERRENT DEVICE AN D METHOD	:

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 01 March 2007, to accept the application without the signatures of joint inventors, BRIAN HAND and VANESSA PRESTON. Applicant's request for a four month extension of time is granted.

BACKGROUND

On 06 March 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 01 September 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 01 March 2007, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventors The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signatures of inventors alleging that Mr Hand and Ms. Preston refuse or are unavailable to sign the application.

On 15 May 2007, applicant filed a declaration executed by the previously nonsigning inventor Brian Hand.

DISCUSSION

The declaration executed by previously nonsigning inventor Brian Hand satisfies the requirements of 37 CFR 1.497(a) and (b) and is acceptable. Thus, the petition under 37 CFR 1.47(a) with respective to inventor Hand is dismissed as moot.

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(g), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

The petition included the requisite petition fee, satisfying Item (1). Item (3) is satisfied because the last known address of non-signing inventor Vanessa Preston was provided. With regard to item (4), the declaration executed by the available joint inventors on their behalf and on behalf of the non-signing inventor was submitted and satisfies the requirements of 37 CFR 1.47(a).

With respect to Item (2) above, Petitioner provided a statement of facts of Michael J. Pollack, patent agent for the petitioning law firm, in support of the petition under 37 CFR 1.47(a). Mr. Pollack indicates that the statement is based upon evidence provided to him by the assignee. Mr. Pollack relates that a paralegal for the assignee sent a letter to Ms. Preston on 27 October 2006 via USPS certified mail and sent a second letter on 27 February 2007 via USPS Express Mail, without any reply from Ms. Preston. A copy of the letters were attached. The letters indicate that only a declaration, power of attorney and assignment were sent to the nonsigning inventor. Ms. Preston never received the 27 February 2007 mailing as demonstrated by the USPS Express Mail Tracking detail, which indicates that Ms. Preston moved and left no forwarding address.

Petitioner did not present a complete copy of the application papers including specification, claims and drawings and oath or declaration to the non-signing inventor for her signature. It is apparent that Ms. Preston is no longer at her last known address.

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 inventor to obtain their signatures on the declaration. No further efforts to locate the nonsigning inventor 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 inventor were not pursued and documented such as Internet searches, contact with the joint inventor to obtain the nonsigning inventor's current address, current email address and/or current employer. No attempt to reach the nonsigning inventor by telephone was made. No request from the Postal Service for their forwarding address was made.

Here the nonsigning inventor is no longer at the last known address. 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 inventor's new address was made. Since no attempts

to locate the inventor 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 inventor. Under these circumstances, it cannot be concluded that then nonsigning inventor is 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 10/570,713 (specification, including claims, drawings, and declaration) to the nonsigning inventor for her signature and her refusal to sign these documents and (2) that "a diligent effort" was made to contact or locate the nonsigning inventor. 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 is unavailable 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) with respect to Vanessa Preston is **DISMISSED WITHOUT PREJUDICE**.

The petition under 37 CFR §1.47(a) with respect to Brian Hand is **DISMISSED as MOOT**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile (571) 272-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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20 SEP 2007

EDWARDS ANGELL PALMER AND DODGE, LLP
P.O. BOX 55874
BOSTON, MA 02205

In re Application of FREITAG et al.	:
Application No.: 10/570,713	: DECISION ON
PCT No.: PCT/US04/29100	:
Int. Filing: 07 September 2004	: RENEWED PETITION
Priority Date: 04 September 2003	:
Attorney Docket No.: CPG 03-37 PM	:UNDER 37 CFR 1.47(a)
For: RETAIL THEFT-DETERRENT DEVICE AND METHOD	:

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 28 August 2007, to accept the application without the signature of inventor VANESSA PRESTON.

BACKGROUND

On 06 March 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 01 September 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 01 March 2007, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventors The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signatures of inventors alleging that Mr Hand and Ms. Preston refuse or are unavailable to sign the application.

On 15 May 2007, applicant filed a declaration executed by the previously nonsigning inventor Brian Hand.

On 29 June 2007, a decision was mailed to applicant indicating that declaration executed by previously nonsigning inventor Brian Hand satisfied the requirements of 37 CFR 1.497(a) and (b) and was acceptable. With regard to inventor Vanessa Preston, Petitioner did not present a complete copy of the application papers including specification, claims and drawings and oath or declaration to the non-signing inventor for her signature. It was apparent that Ms. Preston is no longer at her last known address. Thus, the petition under 37 CFR 1.47(a) was dismissed with respect to Ms. Preston.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(g), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Petitioner previously provided the requisite petition fee, satisfying Item (1). Item (3) is satisfied because the last known address of non-signing inventor Vanessa Preston was provided. With regard to item (4), the declaration executed by the available joint inventors on their behalf and on behalf of the non-signing inventor was submitted and satisfies the requirements of 37 CFR 1.47(a).

With respect to Item (2) above, Petitioner has now provided a statement of facts of Ivette Reyes, legal executive assistant, MeadWestvaco Corp., in support of the petition under 37 CFR 1.47(a). Ms. Reyes conducted an internet search and located an address and telephone which "was linked, via the background check feature to a former address in Sound Beach, NY, which was previously the last known address of Ms. Preston". On 13 July 2007, Ms. Reyes mailed a copy of the application papers along with the declaration, power of attorney and assignment to Ms. Preston via Express Mail. Ms. Reyes also telephoned Ms. Preston on 15 August, 23 August and 27 August 2007 to confirm receipt of the papers. The telephone outgoing message indicated that the telephone number was that of "Vanessa Preston". No response from Ms. Preston had been received. This is sufficient evidence to conclude that Ms. Preston, by her conduct, refuses to sign the application papers. Item 2 is satisfied.

In sum, Petitioner has now satisfied Items (1) - (4) above. For the reasons set forth above, the evidence submitted supports a finding that the nonsigning inventor refuses to sign the application at this time. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **GRANTED**.

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 15 May 2007. The application has an international filing date of 07 September 2004 under 35 U.S.C. 363, and a date of 15 May 2007under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration
Telephone: (571) 272-3286
Facsimile (571) 272-0459

~~HF~~

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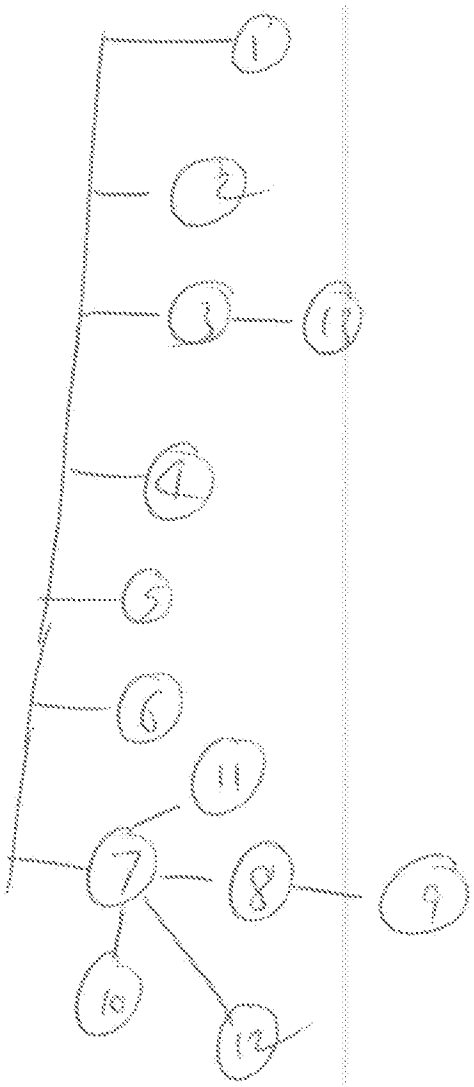

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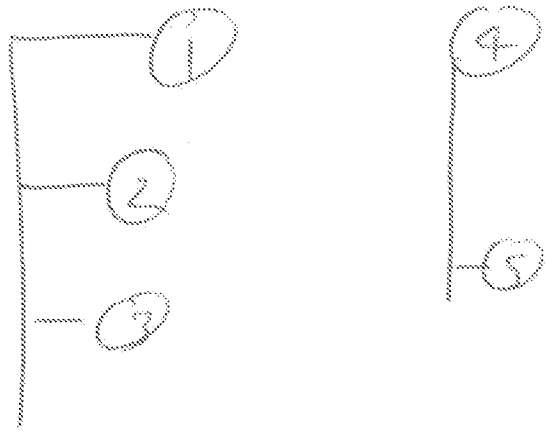

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Paper No.

LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO IL 60604

MAILED

MAY 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Gwang Woo Jang	:	
Application No. 10/570,721	:	DECISION ON PETITION
Filed: May 11, 2006	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.137(B)
CU4713WWP	:	
Title: CELL FOR GENERATING	:	
DISINFECTION WATER AND	:	
SYSTEM USING THE SAME	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed January 27, 2009, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 23, 2008, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 24, 2008. A notice of abandonment was mailed on December 30, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on January 27, 2009 can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

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1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

United States 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 JAN 2007

MILLER, MATTHIAS & HULL
ONE NORTH FRANKLIN STREET
SUITE 2350
CHICAGO IL 60606

In re Application of	:	
Cormont et al.	:	
Application No.: 10/570,726	:	
PCT No.: PCT/FR04/02226	:	
Int. Filing Date: 01 September 2004	:	DECISION
Priority Date: 05 September 2003	:	
Attorney Docket No.: 28944/50023	:	
For: Method And Device For Lithography	:	
By Extreme Ultraviolet Radiation	:	

This is with regard to the petition under 37 CFR 1.182 filed on 27 September 2006.

BACKGROUND

This international application was filed on 01 September 2004, claimed an earliest priority date of 05 September 2003, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 31 March 2005. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 06 March 2006 (since 05 March 2006 was a Sunday).

On 20 September 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely pay the required basic national fee.

DISCUSSION

The instant petition requests withdrawal of the holding of abandonment on the basis that "the application is not abandoned," in that applicants allegedly filed, *inter alia*, the basic national fee on 06 March 2006. Review of the electronic records of the USPTO reveals that the basic national fee was in fact paid on 06 March 2006. Therefore, the Notification of Abandonment (Form PCT/DO/EO/909) mailed on 20 September 2006 was issued in error, and therefore it is hereby **VACATED**.

CONCLUSION

The petition to withdraw the holding of abandonment is **GRANTED**.

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 **06 March 2006**.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

COPY MAILED
SEP 19 2008

In re Application of :
Colin Uebergang :
Application No. 10/570,730 : ON PETITION
Filed: December 11, 2006 :
Attorney Docket No. PIZ-10502/00 :

This is a decision in response to the petition, filed May 22, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed July 27, 2007. A Notice of Abandonment was mailed on February 14, 2008. On May 22, 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 amendment; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 3725 for appropriate action by the Examiner in the normal course of business on the reply received May 22, 2008.

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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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

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APR 14 2008

OFFICE OF PETITIONS

In re Application of

RATH, Matthias et al.
Application No. 10/570,733
Filed: November 13, 2006
Attorney Docket No. **11957/47205**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 05, 2008 and resubmitted April 02, 2008.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John Resek on behalf of all attorneys of record who are associated with customer No. 26646. 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 the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MATTHIAS RATH**
34 BREE STREET
15TH FLOOR
CAPETOWN, SOUTH AFRICA
8001

cc: **ALI KAMAREI, ESQ.**
280 COLORADO AVENUE
PALO ALTO, CA 94301

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

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MAY 29 2008

OFFICE OF PETITIONS

In re Application of	
NETKE, et al.	
Application No. 10/570,735	DECISION ON PETITION
Filed: December 6, 2006	TO WITHDRAW
Attorney Docket No. **11957/47204**	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 5, 2008 and re-submitted April 2, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John Resek on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor having a complete address at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ALEKSANDRA NIEDZWIECKI**
1394 HECKMAN
SAN JOSE, CA 95129

cc: **ALI KAMAREI, ESQ.**
280 COLORADO AVENUE
PALO ALTO, CA 94301

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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	: Georg Kwoka	: DECISION ON REQUEST FOR
Patent Number	: 7648011	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/570,774	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **730** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 DEC 2006

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ROBERT D. FISH
RUTAN & TUCKER LLP
611 ANTON BLVD 14TH FLOOR
COSTA MESA, CA 92626-1931

In re Application of MESSER, Barry et al. Application No.: 10/570,780 PCT No.: PCT/US04/19949 Int. Filing Date: 16 June 2004 Priority Date: 03 September 2003 Docket No.: 1003250229US For: POST WELD HEAT TREATMENT FOR CHEMICALLY STABILIZED AUSTENITIC STAINLESS STEEL	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' Petition to Revive Under 37 CFR §1.137(b), filed in the above-captioned application on 27 November 2006 is **GRANTED**.

Applicants indicate that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted. The fee for late filing of the search fee, examination fee or oath or declaration will be charged to deposit account no. 50-2191, as authorized.

This application is being referred 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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 07/02/2010

Applicant	: Juan Arias Lopez	: DECISION ON REQUEST FOR
Patent Number	: 7662029	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/570,782	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/05/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Dickinson Wright PLLC
James E. Ledbetter, Esq.
International Square
1875 Eye Street, N.W., Suite 1200
Washington, DC 20006

Mail Date: 04/21/2010

Applicant	: Kiyotaka Kobayashi	: DECISION ON REQUEST FOR
Patent Number	: 7646822	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/570,790	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **913** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LEWIS, RICE & FINGERSH, LC
ATTN: BOX IP DEPT.
600 Washington Ave.
Suite 2500
ST LOUIS, MO 63101

Mail Date: 04/20/2010

Applicant	: Christoph Fluhrer	: DECISION ON REQUEST FOR
Patent Number	: 7633158	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/570,798	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Darby & Darby P.C.
P.O. Box 770
Church Street Station
New York, NY 10008-0770

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OFFICE OF PETITIONS

In re Application of

Bakulesh Mafatlal Khamar et al.
Application No. 10/570,824
Filed: October 31, 2006
Attorney Docket No. 574152000700

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 13, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because Peter J. Davis or Laura Chung are no longer attorneys of record in this application.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. A courtesy copy will be mailed to the address noted on the request to withdraw. If this firm would like to receive future correspondence regarding this application, the proper power of documents must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Morrison & Foerster, LLP
1650 Tysons Boulevard
Suite 300
McLean, VA 22102

0 9 MAY 2006

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NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

In re Application of	:	
DILEA, Clifford et al.	:	
Application No.: 10/570,850	:	DECISION
PCT No.: PCT/EP04/09737	:	
Int. Filing Date: 01 September 2004	:	ON PETITION UNDER
Priority Date: 02 September 2003	:	
Docket No.: 33336-US-PCT	:	37 CFR 1.137(b)
For: CANCER TREATMENT WITH EPOTHILONES	:	

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 06 March 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 submitting the search fee, examination fee or oath or declaration later than 30 months will be charged to deposit account no. 19-0134, 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 JUN 2006

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YOUNG & THOMPSON
745 South 23rd Street
Arlington, VA 22202

In re Application of	:	DECISION ON
VATELOT, Yves	:	
Application No.: 10/570,881	:	
PCT No.: PCT/FR2003/050107	:	
Int. Filing Date: 24 October 2003	:	PETITION UNDER
Priority Date: 24 October 2002	:	
Attorney's Docket No.: 0540-1044	:	
For: GRAPE TREATMENT METHOD ...	:	
WINEMAKING CONTAINER	:	37 CFR 1.137(b)

This decision is in response to applicants' "Petition To Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b)," filed on 07 March 2006. The Deposit Account No.: 25-0120 has been charged the petition amount of $750.00.

BACKGROUND

On 24 October 2003, this international application was filed, claiming an earliest priority date of 24 October 2002. A copy of the international application was transmitted to the United States from the International Bureau on 13 March 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 24 April 2005.

On 07 March 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 Patent and Trademark Office (USPTO), which was accompanied by, basic national fee, and the petition fee for revival of an unintentionally abandoned application. No executed declaration or oath was filed at such time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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P.O. Box 1450
Alexandria, VA 22313-1450
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CST

December 15, 2008

In re application of Masatoshi Matsumura Serial No. 10/570,883 Filed: September 13, 2006 For: BIODIESEL FUEL MODIFYING AGENT, FUEL AND METHOD RELATED THERETO	: : : : : : :	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program filed October 28, 2008.

The request and petition are **DISMISSED** as moot. Specifically, a non-final office action was mailed in this application on November 14, 2008.

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, note where the JPO 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 JPO application with similar claims and the JPO priority application;

(2) Applicant must submit a copy of:
   a. The allowable/patentable claim(s) from the JPO 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 JPO 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 JPO 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 JPO application is a first action allowance then no office action from the JPO 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 JPO 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 JPO examiner in the JPO 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 pilot program and petition fail because:

(4) Examination of the U.S. application has begun. Specifically, note that a non-final office action was mailed on November 14, 2008.

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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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/21/2010

Applicant	: Bernd Wunderer	: DECISION ON REQUEST FOR
Patent Number	: 7600898	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/570,898	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **238** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

0 5 MAY 2009

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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

In re Application of	:	
LIEW, Jat Yuen Richard et al.	:	
Application No.: 10/570,910	:	DECISION
Filing Date: 03 March 2006	:	
Attorney Docket No.: ELLAC73328	:	
For: DEPLOYABLE STRUCTURES	:	

This is a decision on applicant's Petition Under 37 CFR 1.182, filed in the United States Patent and Trademark Office on 06 March 2009.

BACKGROUND

On 03 March 2006, applicants filed *inter alia*, fees, a national phase transmittal, a utility patent application transmittal letter and a preliminary amendment. The national phase transmittal and preliminary amendment both indicated that the application was a national phase entry of PCT/SG2005/021882.

On 28 February 2009, applicants filed a declaration of the inventors indicating that the application claimed foreign priority from international application PCT/SG2005/021882.

On 06 March 2009, applicant filed this petition requesting that the Office correct the national phase information for the above application.

DISCUSSION

A review of the above-captioned application file indicates it is a utility application filed under 35 U.S.C. 111(a).

The USPTO 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.

Here, the reference to 37 CFR 1.53(b) at the top of the transmittal letter filed on 03

March 2006, is an instruction to process the application pursuant to 35 U.S.C. 111(a). Thus, the application is a filing under 35 U.S.C. 111(a) pursuant to 1077 OG 13.

U.S. Statutes and Regulations do not make specific provision for conversion of the application to a national phase and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available.

Applicant may wish to consider filing a petition to add an unintentionally delayed priority claim.

CONCLUSION

As indicated above, this application will be processed as a 35 USC 111(a) filing.

This application is being forwarded to the Initial Processing Division of the Office of Patent Application Processing for continued processing.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

2 1 JUL 2009

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HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

In re Application of	:	
LIEW, Jat Yuen Richard et al.	:	
Application No. 10/570,910	:	DECISION ON PETITION
Filed: 03 March 2006	:	UNDER 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. ELLAC-73328	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 09 June 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications, set forth in the amendment filed with the petition. It is also being treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional application set forth in the declaration filed 28 February 2009.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(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 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation,

divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, 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. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 or 37 CFR 1.76(b)(5)) to correct the above matters are 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) 273-0459
ATTN: Office of PCT Legal Administration

Any inquiries concerning this decision may be directed to the Erin Thomson at (571) 272-3292.

/Bryan Lin/
Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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2 8 OCT 2009

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HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

In re Application of	:	
LIEW, Jat Yuen Richard et al.	:	
Application No. 10/570,910	:	DECISION ON PETITION
Filed: 03 March 2006	:	UNDER 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. ELLAC-73328	:	

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed 08 September 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) 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) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(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 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an

amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Erin Thomson at (571) 272-3292. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3635 for appropriate action on the amendment submitted 08 September 2009, including consideration by the examiner of the claim for benefit of the prior-filed applications.

/Boris Milef/

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT : Corrected Filing Receipt

27 MAR 2006

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK NY 10038

In re Application of SKOWAISA et al.	:	
Application No.: 10/570,923	:	
PCT No.: PCT/EP03/11083	:	DECISION ON
Int. Filing: 07 October 2003	:	
Priority Date: 08 October 2002	:	PETITION UNDER
Attorney Docket No.: 40124/08401	:	
For: MEANS FOR CALIBRATING A MEASURING INSTRUMENT	:	37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 01 March 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that the "entire delay in entering the National Phase, from April 8, 2005 to the filing of this petition under 37 CFR 1.137(b)(3) is unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

A review of the application file reveals that the basic national fee of $300 has been provided. The required petition fee of $1500 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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21 JUL 2006

RatnerPrestia
PO Box 980
Valley Forge, PA 19482-0980

In re Application of	:	
DELGADO, Thomas	:	
Application No.: 10/570,928	:	DECISION
PCT No.: PCT/EP03/04527	:	
Int. Filing Date: 30 April 2003	:	ON PETITION UNDER
Priority Date: None	:	
Docket No.: C&P-161US	:	37 CFR 1.137(b)
For: A SNOWBOARD BINDING	:	

Applicants' "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 08 March 2006 is **GRANTED**.

Applicant indicates that the delay was unintentional. This is construed to mean 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). If this is not a correct interpretation, the Office must be notified immediately. The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicant has supplied a declaration in compliance with 37 CFR 1.497(a)-(b). The fee for late furnishing of the search fee, examination fee or oath or declaration will be charged to deposit account no. 18-0350, 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 08 March 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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Alexandria, VA 22313-1450
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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

RECEIVED
JAN 05 2009
OFFICE OF PETITIONS

In re Application of :
Ahoron Bornstein et al. :
Application No. 10/570,968 : DECISION ON PETITION
Filed: May 15, 2006 :
Attorney Docket No. 06195 :

This is a decision on the request for Certificate of Correction 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 that has issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is Israel Atomic Energy Commission, Yaven (IL); and Eshed Chemicals Ltd., Ashdod (IL) 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 that has 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

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

> of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The petition was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Israel Atomic Energy Commission, Yavne (IL); and Eshed Chemicals Ltd., Ashdod (IL) 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.

Inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction in accordance with this decision.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

PATENT ASSIGNMENT

Electronic Version v1.1
Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT

CONVEYING PARTY DATA

Name	Execution Date
Noam Shafir	03/13/2008

RECEIVING PARTY DATA

Name:	Israel Atomic Energy Commission
Street Address:	Soreq, NRC
City:	Yavne
State/Country:	ISRAEL
Postal Code:	81800

PROPERTY NUMBERS Total: 1

Property Type	Number
Application Number:	10570968

CORRESPONDENCE DATA

Fax Number: (203)865-0297
Correspondence will be sent via US Mail when the fax attempt is unsuccessful.
Phone: 203-777-6628
Email: rachel@bachlap.com
Correspondent Name: BACHMAN & LAPOINTE, P.C.
Address Line 1: 900 CHAPEL STREET
Address Line 2: SUITE 1201
Address Line 4: NEW HAVEN, CONNECTICUT 06510

ATTORNEY DOCKET NUMBER:	06-195
NAME OF SUBMITTER:	Gregory P. LaPointe

Total Attachments: 2
source=06-195_Assignment#page1.tif
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CH $40.00 10570968

ASSIGNMENT

In consideration of One Dollar ($1.00), and other good and valuable consideration, the receipt of which is hereby acknowledged, I, the undersigned, Noam Shafir, a citizen and a resident of 1 Smadar St., Ramat Gan, Israel hereby sell, assign and transfer to Israel Atomic Energy Commission, a corporation of Israel, having a place of business at a corporation of Israel, having a place of business at Soreq, NRC, Yavne 81800, Israel, its successors, assigns and legal representatives, the entire right, title and interest for the United States and all foreign countries, in and to any and all improvements which are disclosed in the application for United States Letters Patent, which has been executed by the undersigned concurrently herewith and is entitled NON-LETHAL LAND MINES (Attorney Docket No. 06-195), and in and to said application and all divisional, continuing, substitute, renewal, reissue, and all other applications for Letters Patent which have been or shall be filed in the United States and all foreign countries on any of said improvements; and in and to all original and reissued patents which have been or shall be issued in the Untied States and all foreign countries on said improvements;

Agree that said Assignee may apply for and receive Letters Patent for said improvements in its own name; and that, when requested, without charge to but at the expense of said Assignee, its successors, assigns and legal representatives, to carry out in good faith the intent and purpose of this assignment, the undersigned will execute all divisional, continuing, substitute, renewal, reissue, and all other patent applications on any and all said improvements; execute all rightful oaths, assignments, powers of attorney and other papers; communicate to said Assignee, its successors, assigns, and representatives, all facts known to the undersigned relating to said improvements and the history thereof; and generally do everything possible which said Assignee, its successors, assigns or representatives shall consider desirable for aiding in securing and maintaining proper patent protection for said improvements and for vesting title to said improvements and all applications for patents and all patents on said improvements, in said Assignee, its successors, assigns and legal representatives; and

Covenant with said Assignee, its successors, assigns and legal representatives that no assignment, grant, mortgage, license or other agreement affecting the rights and property herein

conveyed has been made to others by the undersigned, and that full right to convey the same as herein expressed is possessed by the undersigned.

(L.S.)_____ 13.3.08
Noam Shafir (Date)

PATENT ASSIGNMENT

Electronic Version v1.1
Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT

CONVEYING PARTY DATA

Name	Execution Date
Uri Bach	03/30/2006

RECEIVING PARTY DATA

Name:	Eshed Chemicals, Ltd.
Street Address:	21 Haplada Street, North Industrial Zone
City:	Ashdod
State/Country:	ISRAEL
Postal Code:	77524

PROPERTY NUMBERS Total: 1

Property Type	Number
Application Number:	10570968

CORRESPONDENCE DATA

Fax Number: (203)865-0297
Correspondence will be sent via US Mail when the fax attempt is unsuccessful.
Phone: 203-777-6628
Email: rachel@bachlap.com
Correspondent Name: Bachman & LaPointe, P.C.
Address Line 1: 900 Chapel Street
Address Line 2: Suite 1201
Address Line 4: New Haven, CONNECTICUT 06510-2802

ATTORNEY DOCKET NUMBER:	06-195
NAME OF SUBMITTER:	Gregory P. LaPointe

Total Attachments: 2
source=06-195 Executed Assignment2#page1.tif
source=06-195 Executed Assignment2#page2.tif

CH $40.00 10570968

ASSIGNMENT

In consideration of One Dollar ($1.00), and other good and valuable consideration, the receipt of which is hereby acknowledged, I, the undersigned, Aharon Bornstein, a citizen and a resident of Israel hereby sell, assign and transfer to Israel Atomic Energy Commission, a corporation of Israel, having a place of business at Soreq, NRC, Yavne 81800, Israel, its successors, assigns and legal representatives, the entire right, title and interest for the United States and all foreign countries, in and to any and all improvements which are disclosed in the application for United States Letters Patent, which has been executed by the undersigned concurrently herewith and is entitled NON-LETHAL LAND MINES (Attorney Docket No. 06-195), and in and to said application and all divisional, continuing, substitute, renewal, reissue, and all other applications for Letters Patent which have been or shall be filed in the United States and all foreign countries on any of said improvements; and in and to all original and reissued patents which have been or shall be issued in the Untied States and all foreign countries on said improvements;

Agree that said Assignee may apply for and receive Letters Patent for said improvements in its own name; and that, when requested, without charge to but at the expense of said Assignee, its successors, assigns and legal representatives, to carry out in good faith the intent and purpose of this assignment, the undersigned will execute all divisional, continuing, substitute, renewal, reissue, and all other patent applications on any and all said improvements; execute all rightful oaths, assignments, powers of attorney and other papers; communicate to said Assignee, its successors, assigns, and representatives, all facts known to the undersigned relating to said improvements and the history thereof; and generally do everything possible which said Assignee, its successors, assigns or representatives shall consider desirable for aiding in securing and maintaining proper patent protection for said improvements and for vesting title to said improvements and all applications for patents and all patents on said improvements, in said Assignee, its successors, assigns and legal representatives; and

Covenant with said Assignee, its successors, assigns and legal representatives that no assignment, grant, mortgage, license or other agreement affecting the rights and property herein

conveyed has been made to others by the undersigned, and that full right to convey the same as herein expressed is possessed by the undersigned.

(L.S.) _____ _____
Aharon Bornstein (Date)

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Alexandria, VA 22313-1450
www.uspto.gov

0 3 JUN 2009

28075
CROMPTON, SEAGER AND TUFTE, LLC
1221 Nicollet Avenue
Suite 800
Minneapolis, MN 55403-2420

In re Application of :
EGLI *et al* :
Application No.: 11/570,975 :
PCT No.: PCT/EP2005/012580 :
Filing Date: 24 November 2005 : **DECISION**
Priority Date: None :
Attorney Docket No.: 1292.1114101 :
For: INTERVERTEBRAL STABILIZATION :
SYSTEM :

This is a decision on the petition under 37 CFR 1.55(c), filed 31 March 2009, for acceptance of an unintentionally delayed claim under 35 U.S.C. §119(a)-(d) for benefit of the filing date of foreign priority EP 04030000.6, filed 17 December 2004.

The petition is **DISMISSED** as **MOOT**.

Applicant requests to amend the current national stage application to claim priority to European Application 04030000.6 having a filing date of 17 December 2004. However, the subject application is the national stage of PCT/EP2005/012580 and, as such, a proper claim for priority to EP 04030000.6, filed 17 December 2004 was made under 37 CFR 1.55(a)(1)(ii) and 35 U.S.C. 119(a).

Accordingly, the petition under 37 CFR 1.78 is not required. The petition fee of $1,410.00 will be credited back to Deposit Account No. 50-0413.

This application is being forwarded to Art Unit 3733 for further processing in accordance with this decision. A corrected filing receipt will accompany this decision.

Any questions concerning this matter may be directed to James Thomson at (571) 272-3302.

BryanLin

Bryan Lin
Legal Examiner
PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

MAILED

JAN 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Naumann et al.	:	
Application No. 10/570984	:	DECISION ON PETITION
Filed: 03/08/2006	:	
Attorney Docket No. 5413ALC-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 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 May 22, 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 August 23, 2008. A Notice of Abandonment was mailed on February 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 1793 for appropriate action by the Examiner in the normal course of business on the reply received on August 7, 2009.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/570,984	03/08/2006	Dirk Naumann	5413ALC-1

CONFIRMATION NO. 7265

POA ACCEPTANCE LETTER

22442
SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

OC000000039926579

Date Mailed: 01/29/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/07/2009.

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.

/ctdonnell/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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NATH & ASSOCIATES PLLC
112 South West Street
Alexandria, VA 22314

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SEP - 2008

OFFICE OF PETITIONS

In re Application of	:	
Florian Abel, et. al.	:	
Application No. 10/570,986	:	DECISION ON PETITION
Filed: Marcfh 28, 2006	:	
Attorney Docket No. 27232U	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office action of January 9, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 10, 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 and $810 with the previously filed submission required by 37CFR 1.114; (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The United States Patent and Trademark Office received a payment of $120 for a one month extension of time on May 9, 2008.

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 $120 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to the petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 1617 for appropriate action by the Examiner in the normal course of business on the reply received.

for

Andrea Smith
Petitions Examiner
Office of Petitions

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NATH & ASSOCIATES PLLC
112 South West Street
Alexandria, VA 22314

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Florian Abel, et. al.	:	
Application No. 10/570,986	:	DECISION ON PETITION
Filed: Marcfh 28, 2006	:	
Attorney Docket No. 27232U	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office action of January 9, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 10, 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 and $810 with the previously filed submission required by 37CFR 1.114; (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The United States Patent and Trademark Office received a payment of $120 for a one month extension of time on May 9, 2008.

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 $120 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to the petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 1617 for appropriate action by the Examiner in the normal course of business on the reply received.

for

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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22 JAN 2007

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

In re Application of	:	
EISENBACH-SCHWARTZ et al.	:	DECISION ON
Application No.: 10/570,989	:	
PCT No.: PCT/US2004/029288	:	PAPERS
Int. Filing Date: 08 September 2004	:	
Priority Date: 08 September 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: EISSCHWARTZ30A	:	
For: A METHOD FOR TREATING OR INHIBITING	:	
THE EFFECTS OF INJURIES OR DISEASES THAT	:	
RESULT IN NEURONAL DEGENERATION	:	

This is a decision on the submission filed by applicants on 27 December 2006, which was accompanied by, *inter alia*, three declarations of the inventors. The indication in one of the declarations that inventor Ofer Lider is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 08 September 2004, applicants filed international application PCT/US2004/029288 which designated the U.S. and claimed a priority date of 08 September 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 24 March 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 08 March 2006.

On 08 March 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.

On 27 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage were required.

On 27 December 2006, applicants filed the instant submission which was accompanied

by, *inter alia*, three declarations of the inventors and the surcharge under 37 CFR 1.492(h). The indication in one of the declarations that inventor Ofer Lider is deceased has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

The declarations of inventors submitted 27 December 2006 do not comply with 37 CFR 1.497(a)-(b) because they do not list the correct inventorship. There is a difference in names in one of the named inventors between the published international application (Michal Schwartz) and the declarations of inventors (Michal Eisenbach-Schwartz). Because this difference in names is more than a mere typographical error or a phonetic misspelling of applicant's legal name, a proper petition under 37 CFR 1.182 is required in order to resolve the matter. Such a petition must be accompanied by the requisite petition fee of $400 as well as a statement from the inventor. 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

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

1 1 JUN 2007

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P.O. Box 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	:	
EISENBACH-SCHWARTZ et al.	:	DECISION
Application No.: 10/570,989	:	
PCT No.: PCT/US2004/029288	:	
Int. Filing Date: 08 September 2004	:	
Priority Date: 08 September 2003	:	
Attorney's Docket No.: EISSCHWARTZ30A	:	
For: A METHOD FOR TREATING OR INHIBITING	:	
THE EFFECTS OF INJURIES OR DISEASES THAT	:	
RESULT IN NEURONAL DEGENERATION	:	

This decision is in response to applicants' "PETITION UNDER 37 CFR 1.182 REGARDING INVENTOR'S NAME" filed on 08 May 2007.

BACKGROUND

On 08 September 2004, applicants filed international application PCT/US2004/029288 which designated the U.S. and claimed a priority date of 08 September 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 24 March 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 08 March 2006.

On 08 March 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.

On 27 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage were required.

On 27 December 2006, applicants filed a submission which was accompanied by, *inter alia*, three declarations of the inventors and the surcharge under 37 CFR 1.492(h). The

indication in one of the declarations that inventor Ofer Lider is deceased has been treated as a request for status under 37 CFR 1.42.

On 22 January 2007, a decision was mailed refusing applicants' request under 37 CFR 1.42. Specifically, it was noted that there was a difference in names in one of the named inventors between the published international application (Michal Schwartz) and the declarations of inventors (Michal Eisenbach-Schwartz) and that a proper petition under 37 CFR 1.182 was required in order to resolve the matter.

On 08 May 2007, applicants filed the instant "PETITION UNDER 37 CFR 1.182 REGARDING INVENTOR'S NAME" which was accompanied by a statement of Michal Eisenbach-Schwartz.

On 29 May 2007, a Notification was mailed indicating that applicants' reply was received after the expiration of the period for reply set in the decision mailed 22 January 2007 and that the application will become abandoned unless applicants obtain an extension of time to reply to the decision under 37 CFR 1.136(a).

DISCUSSION

Notification Mailed 29 May 2007

Upon further review of the application, an authorization to charge any extension of time fees was found in the submission filed 27 December 2006. Accordingly, the Notification mailed 29 May 2007 is hereby VACATED. A two-month extension of time fee has been charged to Deposit Account 02-4035.

Petition Under 37 CFR 1.182

The petition fee has been paid. The statement of Michal Eisenbach-Schwartz filed 08 May 2007 is accepted.

Request for Status Under 37 CFR 1.42

The submissions filed 27 December 2006 and 08 May 2007 have been reviewed and have been found in compliance with 37 CFR 1.42.

Declaration of Inventors

The declarations of inventors filed 27 December 2006 are in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The Notification mailed 29 May 2007 is VACATED.

For the above reasons, the petition under 37 CFR 1.182 is **GRANTED**.

For the above reasons, the request for status under 37 CFR 1.42 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 **27 December 2006**.

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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MORGAN & FINNEGAN, LLP
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

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JUL 07 2008

In re Application of	:	
Andrew John Martin	:	
Application No. 10/570,990	:	DECISION ON PETITION
Filed: March 8, 2006	:	TO WITHDRAW
Attorney Docket No. 4891-0001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed December 26, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Michael Marcus does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DAVID S. BRADIN, ESQ.
WOMBLE, CARLYLE, SANDRIDGE & RICE, PLLC
2530 MERIDIAN PARKWAY
DURHAM, NC 27713

17 OCT 2007

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HAYNES AND BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS, TX 75202-3789

In re Application of SHUSTER et al	:	
U.S. Application No.: 10/571,017	:	
PCT Application No.: PCT/US2004/029025	:	DECISION
Int. Filing Date: 07 September 2004	:	
Priority Date Claimed: 05 September 2003	:	
Attorney Docket No.: 25791.306.04	:	
For: EXPANDABLE TUBULAR	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.182" filed 28 August 2007.

BACKGROUND

On 07 September 2004, applicant filed international application PCT/US2004/029025, which claimed priority of an earlier United States application filed 05 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 06 March 2006 (05 March 2006 was a Sunday).

On 03 March 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 substitute specification.

On 18 December 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that a properly executed oath or declaration must be filed.

On 12 January 2007, applicant filed an executed declaration.

On 02 May 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration filed 12 January 2007 is incomplete.

On 30 May 2007, applicant filed an executed declaration.

On 07 June 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration filed 30 May 2007 is improper.

On 12 July 2007, applicant filed an executed declaration.

On 28 August 2007, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

A review of international application PCT/US2004/029025 reveals that the application contained 812 claims. A proper amendment reducing the number of claims was never submitted in the international application.

MPEP 1893.01(c) states in relevant part,

> A preliminary amendment accompanying the initial national stage submission under 35 U.S.C. 371 that cancels claims and/or eliminates multiple dependent claims will be effective to reduce the number of claims to be considered in calculating extra claim fees required under 37 CFR 1.492**>(d)-(e)< and/or eliminate the multiple dependent claim fee required under 37 CFR 1.492*>(f)<. A subsequently filed amendment canceling claims and/or eliminating multiple dependent claims will not entitle applicant to a refund of fees previously paid. See MPEP § 607 and § 608. (Emphasis added.)

In the present case, the initial national stage submission on 03 March 2006 did not include a proper preliminary amendment. However, it is apparent from the papers filed 03 March 2006 that applicant sought to reduce the number of claims for examination at the time of national stage entry. Specifically, the substitute specification contained a listing of 27 claims, rather than the 812 claims contained in the international application. Furthermore, the transmittal letter (Form PTO-1390) contained a payment calculation based on the presence of 27 claims as opposed to 812 claims. A proper preliminary amendment was filed with the present petition, reducing the total number of claims to 27. Because of applicant's intent to reduce the number of claims for examination and because the fees due for the presence of 812 claims at the time of the initial national stage submission would not be remotely commensurate with number of claims that remain for examination, justice in the present case requires waiver of the requirement that a preliminary amendment must accompany the initial national stage papers in order to reduce the number of claims to be considered in calculating extra claim fees.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

Applicant is advised that the declaration filed 12 July 2007 is improper. Specifically, the declaration is an impermissible composite declaration which consists of one each of pages 1 and 3 and three of page 2. In addition, page 3 appears to have been transmitted by facsimile. Where individual declarations are executed, they must be submitted as individual documents

rather than combined into one declaration. An appropriate declaration submission would include either: (1) a single complete declaration which has been presented to and executed by all of the inventors or (2) multiple complete declarations, wherein each inventor has executed at least one of the complete declarations. The declaration is further defective because it contains a non-initialed, non-dated alteration on the third of page 2. See 37 CFR 1.52(c)(1) and MPEP 602.01.

Because the time limit for response to the Notification of Defective Response cannot be extended and because the extendable period for response to the Notification of Missing Requirements has expired, the application is ABANDONED.

The application is being forwarded to the DO/EO/US for processing in accordance with this decision, including preparation and mailing of a Notification of Abandonment (Form PCT/DO/EO/909), which should indicate that the application is abandoned for failure to file a proper response to the Notification of Missing Requirements mailed 18 December 2006.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

10/17/2007 SBASHEIR 00000004 081394 10571017
Sale Ref: 00000004 DA#: 081394 10571017
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OFFICE OF PETITIONS

MUETING RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS, MN 55458

Applicant: Hanson
Appl. No.: 10/571,027
International Filing Date: September 10, 2004
Title: PRIMERS FOR USE IN DETECTING BETA-LACATAMASES
Attorney Docket No.: 180.00100101
Pub. No.: 2007/024895 A1
Pub. Date: October 25, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on November 26, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein the provisional data is incorrect. Provisional application 60/502,885 filed on September 12, 2003, is omitted from the front page of 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 in the benefit claim on the front page of the publication is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error in the benefit claim on the front page of the publication is not a material mistake as the benefit claim is in the first line of the specification, as required by 37 CFR 1.78. The error in the benefit claim on the front page of the publication is not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The first line of the specification

[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).

contains the proper benefit claim, thus one can read and understand the application and properly use the patent application publication as a prior art reference.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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31 MAR 2008

Roberts & Roberts, LLP
Attorneys at Law
P.O. Box 484
Princeton, NJ 08542-0484

In re Application of	:	
CAI et al.	:	
Application No. 10/571,032	:	
PCT No.: PCT/SG04/00286	:	DECISION ON PETITION
Int. Filing Date: 08 September 2004	:	UNDER 37 CFR 1.181
Priority Date: 08 September 2003	:	
Attorney Docket No.: ECSF104	:	
For: VIRTUAL PROTEIN THEME PARK	:	
	:	

This decision is in response to applicant's "Petition to Withdraw a Holding of Abandonment" filed in the United States Patent and Trademark Office (PTO) on 11 March 2008, which is being treated as a Petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 08 September 2004, applicant filed international application no. PCT/SG04/00286 which claimed a priority date of 08 September 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 March 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 08 March 2006.

On 07 March 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 an information disclosure statement.

On 20 September 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 11 January 2008, the United States Designated/Elected Office (DO/EO/US)

mailed a Notification of Abandonment indicating that the application was abandoned for failure to respond to the Notification of Missing Requirements mailed 20 September 2006.

On 11 March 2008, applicants filed the petition considered herein. The petition requests withdrawal of the holding of abandonment stating that a response to the Notification Of Missing Requirements was timely filed via facsimile on 23 October 2006.

DISCUSSION

The present petition is accompanied by a document entitled "Response To Notice to File Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office DO/US" that references an attached declaration, contains the authorization to charge Deposit Account No. 18-1589 the required surcharge, and bears a "Certificate of Transmission by Facsimile" dated 23 October 2006. The Certificate of Transmission, executed by Richard S. Roberts, states that the accompanying materials were transmitted to the USPTO by facsimile. The petition also includes a copy of an executed declaration, and the confirmation report from applicants' facsimile machine.

The application file does not contain the materials purportedly filed by facsimile on 23 October 2006. In order to confirm the 23 October 2006 filing of the materials accompanying the present petition, applicants must satisfy the requirements set forth in 37 CFR 1.8(b), which 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 seven-page submission in the present application on 23 October 2006, and the petition is signed by Richard S. Roberts, the same person who signed the certificates of transmission contained in the materials filed 23 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 23 October 2006 as a timely response to the Notification of Missing Requirements mailed 20 September 2006. It is noted that, for all other purposes, these materials will be treated as having been filed on 11 March 2008, the filing date of the present petition (see 37 CFR 1.8(a)).

The Notification of Abandonment mailed 11 January 2008, based as it was on applicants' purported failure to file a timely response to the Notification Of Missing Requirements mailed 20 September 2006, is appropriately vacated.

CONCLUSION

As construed above, applicants' petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**. The Notification of Abandonment mailed on 11 January 2008 is hereby **VACATED**.

The application has an international filing date of 08 September 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **11 March 2008.**

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

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United States Patent and Trademark Office
P.O. Box 1450
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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

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JUL 1 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Jha et al.	:	
Application No. 10/571,038	:	ON PETITION
Filed: December 22, 2006	:	
Attorney Docket No. UDX-005.01	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3282.

Liana Walsh
Petitions Examiner
Office of Petitions

1 7 OCT 2007

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HAYNES AND BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS, TX 75202-3789

In re Application of SHUSTER et al	:	
U.S. Application No.: 10/571,041	:	
PCT Application No.: PCT/US2004/028888	:	DECISION
Int. Filing Date: 07 September 2004	:	
Priority Date Claimed: 05 September 2003	:	
Attorney Docket No.: 25791.305.05	:	
For: EXPANDABLE TUBULAR	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.182" filed 28 August 2007.

BACKGROUND

On 07 September 2004, applicant filed international application PCT/US2004/028888, which claimed priority of an earlier United States application filed 05 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 06 March 2006 (05 March 2006 was a Sunday).

On 03 March 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 substitute specification.

On 26 October 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that a properly executed oath or declaration must be filed.

On 01 November 2006, applicant filed a purported declaration.

On 31 May 2007, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

On 28 August 2007, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

A review of international application PCT/US2004/028888 reveals that the application contained 1369 claims. A proper amendment reducing the number of claims was never submitted in the international application.

MPEP 1893.01(c) states in relevant part,

> A preliminary amendment accompanying the initial national stage submission under 35 U.S.C. 371 that cancels claims and/or eliminates multiple dependent claims will be effective to reduce the number of claims to be considered in calculating extra claim fees required under 37 CFR 1.492**>(d)-(e)< and/or eliminate the multiple dependent claim fee required under 37 CFR 1.492*>(f)<. A subsequently filed amendment canceling claims and/or eliminating multiple dependent claims will not entitle applicant to a refund of fees previously paid. See MPEP § 607 and § 608. (Emphasis added.)

In the present case, the initial national stage submission on 03 March 2006 did not include a proper preliminary amendment. However, it is apparent from the papers filed 03 March 2006 that applicant sought to reduce the number of claims for examination at the time of national stage entry. Specifically, the substitute specification contained a listing of 42 claims, rather than the 1369 claims contained in the international application. Furthermore, the transmittal letter (Form PTO-1390) contained a payment calculation based on the presence of 42 claims as opposed to 1369 claims. A proper preliminary amendment was filed with the present petition, reducing the total number of claims to 42. Because of applicant's intent to reduce the number of claims for examination and because the fees due for the presence of 1369 claims at the time of the initial national stage submission would not be remotely commensurate with number of claims that remain for examination, justice in the present case requires waiver of the requirement that a preliminary amendment must accompany the initial national stage papers in order to reduce the number of claims to be considered in calculating extra claim fees.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

A review of the purported declaration filed 01 November 2006 reveals that it is not in compliance with 37 CFR 1.497 (a)(2)[1] and (a)(4).[2] Accordingly, the Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 31 May 2007 is hereby VACATED.

The application is being forwarded to the DO/EO/US for processing in accordance with this decision, including preparation and mailing of a Notification of Defective Response (Form

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[1] The first page of the declaration appears to be missing.

[2] Applicant is advised that the oath or declaration must properly identify the application to which it is directed. See MPEP 602, Section VI. Identification of Application.

PCT/DO/EO/916), which should indicate that the declaration filed 01 November 2006 is not in compliance with 37 CFR 1.497 (a)(2) and (a)(4).

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

10/17/2007 SBASHEIR 00000003 081394 10571041
Sale Ref: 00000003 DA#: 081394 10571041
01 FC:1462 400.00 DA

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ROBERT W. BECKER & ASSOCIATES
707 HIGHWAY 333
SUITE B
TIJERAS, NM 87059-7507

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OFFICE OF PETITIONS

In re Application of	:	
Ralf Nowack	:	
Application No. 10/571,046	:	DECISION GRANTING PETITION
Filed: March 3, 2006	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. ST3814	:	

This is a decision on the petition, filed December 27, 2007, 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).

As to petitioner's request for a refund of the issue fee, petitioner is advised that a refund of the issue fee request may be requested **if the examiner has withdrawn the application from issue for the purpose of reopening prosecution**. The request for withdrawal from issue in this case was at the request of the applicant, not the Office. Petitioner's attention is further directed to 37 CFR 1.26, which states:

> The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal or a request for an oral hearing, will not entitle a party to a refund of such fee.

Further, the issue fee was owed at the time of payment. Therefore, payment of the issue fee was not made by mistake or in excess of that required nor was there a mistake in payment as contemplated by 37 CFR 1.26. Accordingly, the issue fee is not refundable.

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

Frances M. Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/571,048	03/03/2006	Kazuki Ogawa	FUJY 22.426	1755

7590 02/18/2009
KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

EXAMINER
JIMENEZ, DANILO

ART UNIT	PAPER NUMBER
2447	

MAIL DATE	DELIVERY MODE
02/18/2009	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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30 OCT 2006

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:	
WATANABE, Masayoshi, et al.	:	
U.S. Application No.: 10/571,054	:	
PCT No.: PCT/JP2004/013253	:	DECISION
International Filing Date: 06 September 2004	:	
Priority Date: 08 September 2003	:	
Attorney's Docket No.: Q93262	:	
For: ELECTROLYTE COMPOSITION AND	:	
PHOTOELECTRIC CONVERTER USING	:	
SAME	:	

This is a decision on applicant's "Petition Under 37 CFR 1.182" filed on 24 March 2006, which requests conversion of the present national stage application filed under 35 U.S.C. 371 to a continuation application filed under 35 U.S.C. 111(a). Applicants have paid the required petition fee.

BACKGROUND

On 06 September 2004, applicants filed international application PCT/JP2004/013253. The application claimed a priority date of 08 September 2003, and it designated the United States. On 17 March 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for payment of the basic national fee thirty months from the priority date, i.e. 08 March 2006.

On 07 March 2006, applicants filed a transmittal letter requesting entry into "the National stage under 35 U.S.C. 371" for PCT/JP2004/013253. The transmittal letter was accompanied by, among other materials, payment of the basic national fee, an executed declaration, and a purported translation of the international application into English.

On 24 March 2006, applicants filed the present petition requesting that the present application be converted to a continuation application filed under 35 U.S.C. 111(a).

DISCUSSION

1. Petition To Convert:

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.494(f):

> The documents and fees submitted ... must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a) of the MPEP states that:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

As noted above, applicants' original transmittal letter, filed 07 March 2006, specifically identified the accompanying submission as a national stage filing under 35 U.S.C. 371. No contradictory instructions were submitted at the time of filing. Accordingly, upon filing the present application (10/571,054) was properly treated as the a national stage application of international application PCT/JP2004/013253, filed under 35 U.S.C. 371.

In the present petition, applicants request that the application be converted to a continuation application filed under 35 U.S.C. 111(a). However, U.S. Statutes and Regulations do not make specific provision for the requested action and, as such, the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicants of sufficient cause (e.g., loss of patent rights) where no other remedy is available.

In the present petition, applicants have not provided any showing of sufficient cause which would justify the conversion of the present application, which has been properly processed as a national stage application filed under 35 USC 371, to a continuation application filed under 35 USC 111(a).

Therefore, in view of the facts that the originally filed application papers were properly processed as a filing under 35 USC 371 and that applicants have failed to demonstrate sufficient cause which would justify a conversion of the application, the petition may not be properly granted.

2. English Translation Of International Application:

37 CFR 1.495(c)(1)(i) requires applicants to submit a "translation of the international application, as filed, into the English language." The purported English translation of the international application filed by applicants on 07 March 2006 includes 23 claims; however, the published international application includes only six claims. It therefore appears that applicants have not submitted an English translation of the claims as filed, as required.

CONCLUSION

For the reasons above, the petition to convert the application from a national stage application filed under 35 U.S.C. 371 to a continuation application filed under 35 U.S.C. 111(a) is **DISMISSED** without prejudice.

The present national stage 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 a proper translation into English of the international application (specifically, the original claims filed therein) and the processing fee for filing this translation 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

1 0 DEC 2007

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Alexandria, VA 22313-1450
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THOMAS F. LEBENS
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603

In re Application of	:	
BROUHON, Patrick	:	
Application No.: 10/571,060	:	DECISION
PCT No.: PCT/EP2005/051929	:	
Int. Filing Date: 27 August 2004	:	ON PETITION UNDER
Priority Date: 10 September 2003	:	
Docket No.: 2002070584	:	37 CFR 1.137(b)
For: METHODS AND APPARATUS FOR	:	
GENERATING IMAGES	:	

Applicant's Petition Under 37 CFR 1.137(b), filed in the above-captioned application on 27 September 2007 is **GRANTED**.

Applicant indicates that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate response and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicant has supplied a declaration of inventorship in compliance with 37 CFR 1.497(a)-(b). The fee for late filing of the search fee, examination fee or oath or declaration will be charged to deposit account no. 08-2025, as authorized.

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing for continued processing in accordance with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 27 September 2007.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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12 OCT 2007

HAYNES AND BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS, TX 75202-3789

In re Application of SHUSTER et al	:	
U.S. Application No.: 10/571,086	:	
PCT Application No.: PCT/US2004/028889	:	DECISION
Int. Filing Date: 07 September 2004	:	
Priority Date Claimed: 05 September 2003	:	
Attorney Docket No.: 25791.307.04	:	
For: EXPANDABLE TUBULAR	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.182" filed 27 August 2007.

BACKGROUND

On 07 September 2004, applicant filed international application PCT/US2004/028889, which claimed priority of an earlier United States application filed 05 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 06 March 2006 (05 March 2006 was a Sunday).

On 06 March 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 substitute specification.

On 27 October 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that a properly executed oath or declaration must be filed.

On 07 November 2006, applicant filed a purported declaration.

On 31 May 2007, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

On 27 August 2007, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

A review of international application PCT/US2004/028889 reveals that the application contained 1369 claims. A proper amendment reducing the number of claims was never submitted in the international application.

MPEP 1893.01(c) states in relevant part,

> A preliminary amendment accompanying the initial national stage submission under 35 U.S.C. 371 that cancels claims and/or eliminates multiple dependent claims will be effective to reduce the number of claims to be considered in calculating extra claim fees required under 37 CFR 1.492**>(d)-(e)< and/or eliminate the multiple dependent claim fee required under 37 CFR 1.492*>(f)<. A subsequently filed amendment canceling claims and/or eliminating multiple dependent claims will not entitle applicant to a refund of fees previously paid. See MPEP § 607 and § 608. (Emphasis added.)

In the present case, the initial national stage submission on 06 March 2006 did not include a proper preliminary amendment. However, it is apparent from the papers filed 06 March 2006 that applicant sought to reduce the number of claims for examination at the time of national stage entry. Specifically, the substitute specification contained a listing of 42 claims, rather than the 1369 claims contained in the international application. Furthermore, the transmittal letter (Form PTO-1390) contained a payment calculation based on the presence of 42 claims as opposed to 1369 claims. A proper preliminary amendment was filed with the present petition, reducing the total number of claims to 42. Because of applicant's intent to reduce the number of claims for examination and because the fees due for the presence of 1369 claims at the time of the initial national stage submission would not be remotely commensurate with number of claims that remain for examination, justice in the present case requires waiver of the requirement that a preliminary amendment must accompany the initial national stage papers in order to reduce the number of claims to be considered in calculating extra claim fees.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

A review of the purported declaration filed 07 November 2006 reveals that it is not in compliance with 37 CFR 1.497 (a)(2)[1] and (a)(4).[2] Accordingly, the Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 31 May 2007 is hereby VACATED.

The application is being forwarded to the DO/EO/US for processing in accordance with this decision, including preparation and mailing of a Notification of Defective Response (Form

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[1] The first page of the declaration appears to be missing.

[2] Applicant is advised that the oath or declaration must properly identify the application to which it is directed. See MPEP 602, Section VI. Identification of Application.

PCT/DO/EO/916), which should indicate that the declaration filed 07 November 2006 is not in compliance with 37 CFR 1.497 (a)(2) and (a)(4).

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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MAR 25 2008

OFFICE OF PETITIONS

Applicant: Wolber et al.
Appl. No.: 10/571,088
Filing Date: July 10, 2004
Title: SKIN AND/OR HAIR TREATMENT AGENT CONTAINING TETRASUBSTITUTED CYCLOHEXENE COMPOUNDS
Attorney Docket No.: P29238
Pub. No.: US 2007/0028400-A1
Pub. Date: February 8, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on March 1, 2007, for the above-identified application.

The request is DISMISSED.

Applicants request that the application be republished because the country of residence for four of the five inventors is shown as the United States and not Germany. Also, Applicants request that the application be republished because the address information for the first inventor has changed.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records. Any request for a corrected or revised patent application publication other than as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The instant request does not identify a material mistake in the publication made by the Office under 37 CFR 1.221(b) with respect to the inventors' residence information. The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, determine the scope of the patent application publication, or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

Applicants are advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of

[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 application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a) must be submitted via the EFS system as a "Pre-Grant Publication" and any questions or request for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
www.uspto.gov

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

Mail Date: 05/18/2010

Applicant	: Mihail Kuznecov	: DECISION ON REQUEST FOR
Patent Number	: 7625658	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/571,091	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **217** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 MAY 2006

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Millen, White, Zelano & Branigan
Arlington Courthouse Plaza, Suite 1400
2200 Clarendon Boulevard
Arlington VA 22201

In re Application of	:	
WILHELM, Scott et al.	:	
Application No.: 10/571,100	:	DECISION
PCT No.: PCT/US04/15655	:	
Int. Filing Date: 19 May 2004	:	ON PETITION UNDER
Priority Date: 20 May 2003	:	
Docket No.: BAYER-49	:	37 CFR 1.137(b)
For: DIARYL UREAS WITH KINASE	:	
INHIBITING ACTIVITY	:	

Applicants' "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 08 March 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

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RONALD E. GREIGG
GREIGG & GREIGG P.L.L.C.
1423 POWHATAN STREET, UNIT ONE
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Ralf Wirth	: DECISION ON REQUEST FOR
Patent Number	: 7572305	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/571,105	: 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 **668** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Customer# 43214
EMPK & SHILOH, LLP
116 JOHN ST.
SUITE 1201
NEW YORK, NY 10038

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OFFICE OF PETITIONS

In re Application of	:	
REZNIK, David et al.	:	
Application No. 10/571,156	:	DECISION ON PETITION
Filed: March 09, 2006	:	TO WITHDRAW
Attorney Docket No. **ELGP6193US**	:	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

NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMEMT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

In re Application of	:	
Drews et al.	:	
Application No. 10/571,157	:	DECISION ON PETITION
Filed: March 8, 2006	:	
Attorney Docket No. DE0 0324 US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 28, 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 29, 2008. A Notice of Abandonment was mailed June 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,540.00, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 2624 for appropriate action by the Examiner in the normal course of business on the reply received.

Liana Walsh
Petitions Examiner
Office of Petitions

11 APR 2006

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HOEKENDUK & LYNCH, LLP
P.O. Box 4787
Burlingame, CA 94011-4787

In re Application of :
LICHTENSTEIN, Samuel :
U.S. Application No.: 10/571,165 :
PCT No.: PCT/IB2004/002581 :
Int. Filing Date: 16 July 2004 :
Priority Date: 16 July 2003 :
Attorney Docket No.: 015-002 :
For: METHODS AND DEVICES FOR :
ALTERING BLOOD FLOW THROUGH :
THE LEFT VENTRICLE :

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 06 March 2006 is hereby **GRANTED** as follows:

The basic national fee, surcharge fee and petition fee for a small entity have been paid. Applicant's statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

No declaration was provided.

Accordingly, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) is required.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON, MA 02109-2127

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OFFICE OF PETITIONS

Applicant: Buschmann *et al.*
Application No.: 10/571,167
Filed: March 9, 2006
Title: DIFFERENTIALLY EXPRESSED TUMOUR-SPECIFIC POLYPEPTIDES FOR USE IN THE DIAGNOSIS AND TREATMENT OF CANCER

DECISION DISMISSING PETITION

This is a decision on the "PETITION PURSUANT TO CFR §1.183 TO MODIFY THE RULES REGARDING THE SUBMISSION OF REFERENCES CITED IN AN INFORMATION DISCLOSURE STATEMENT," filed August 28, 2006 ("the petition"). Petitioner requests waiver of 37 CFR 1.98(a)(2) to permit the submission on CDROM of electronic copies of two PCT publications cited in an information disclosure statement (IDS) filed concurrently with the petition on August 28, 2006.

The petition fee of $400.00 pursuant to 37 CFR 1.17(f) for the petition under 37 CFR 1.183 will be charged to petitioner's Deposit Account No. GMI-098US, pursuant to the authorization on page two of the petition.

For the reasons set forth herein, the petition is dismissed.

DISCUSSION

37 CFR 1.98(a)(2) provides that any IDS filed under § 1.97 shall include:

> A legible copy of:
>
> (i) Each foreign patent;
>
> (ii) Each publication or that portion which caused it to be listed, other than U.S. patents and U.S. patent application publications unless required by the Office;
>
> (iii) For each cited pending unpublished U.S. application, the application specification including the claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion; and
>
> (iv) All other information or that portion which caused it to be listed.

37 CFR 1.183 states:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

The instant petition has been fully considered. 37 CFR 1.98(a)(2) requires legible copies of certain documents listed on an IDS filed under 37 CFR 1.97 be submitted to the Office. Petitioner seeks waiver of this copy requirement for two foreign references listed in the August 28, 2006 IDS to permit submission of these references in electronic form on CDROM.[1] The provisions of 37 CFR 1.98(a)(2) may be waived under 37 CFR 1.183 where a petitioner demonstrates an extraordinary situation in which justice requires suspension of the rule.

In support of the petition for waiver of 37 CFR 1.98(a)(2), petitioner asserts that submission of the two large PCT publications, totaling over 10,500 pages, in paper form "would create an unwieldy situation for the Examiner" and that "the submission of these documents via the electronic filing system may also cause transmission problems."[2]

As a general rule, waiver of a rule in the interest of justice is not available when there is recourse within the rules of practice. A CD cannot be used to submit an IDS listing or copies of the documents cited in the IDS.[3] However, in lieu of submitting paper copies of the references to the Office, petitioner may use the Office's web-based electronic filing system (EFS-Web) to electronically submit copies of the references to the Office with an IDS (e-IDS).[4] EFS-Web accepts files formatted in portable document format (PDF) up to 25 megabytes in size.[5] Files larger than 25 megabytes may be broken up into multiple smaller files, each no larger than 25 megabytes, and submitted electronically using file names that indicate their order (*e.g.*, "1 of X", "2 of X", etc.).[6] Submission of the smaller files should alleviate any potential "transmission problems" that might be caused by attempting to transmit files in excess of 25 megabytes.

Additionally, it would not be in the Office's interest to accept petitioner's submission of the references on CDROM as the Office presently has no facility for importing such files from a CDROM directly into the image file wrapper (IFW) of the instant application.[7] Rather, the Office would be required to undergo the time-consuming and costly steps of printing out each of the references submitted on the CDROM and scanning the printed references into the IFW.

[1] *See* petition at page 1.
[2] *See* petition at page 2.
[3] *Manual of Patent Examining Procedure (MPEP)* § 609.04(a)(II) (8th ed. 2001) (Rev. 7, July 2008).
[4] *See MPEP* § 609.07 (providing that "[a]s of May of 2002 IDSs may be submitted to the Office via the EFS" and that "[a]s of January 2007, an e-IDS filed via EFS-Web may include citations of U.S. patents, U.S. patent application publications, foreign patent documents and non-patent literature (NPLs)").
[5] *See Legal Framework for EFS-Web*, Section XV (September 2008).
[6] *Id.* Note that applicant should then either call the Electronic Business Center (EBC) at 866-217-9197 or attach a statement with the submission instructing the Office to merge to the multiple smaller files.
[7] *See Frequently Asked Questions about EFS-Web*, Question p242efs586, at http://www.uspto.gov/ebc/efs_faq.htm.

Such manual scanning of the references printed from the CDROM increases the potential for error on the part of the Office and would likely reduce the quality of the copies of the references that are entered into the IFW.

Accordingly, for all of the reasons set forth above, petitioner has not presented facts that demonstrate an extraordinary situation in which justice requires suspension of 37 CFR 1.98(a)(2), and the petition is dismissed.

CONCLUSION

The petition is dismissed for the reasons set forth herein, and the application is being forwarded to Technology Center 1600 for further processing. Telephone inquiries regarding this communication should be directed to Nicole Dretar at (571) 272-7717.

Brian E. Hanlon

Brian Hanlon
Deputy Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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GLORIA O'BANNON
INNOVENE, INC.
200 EAST RANDOLPH ST.
STE. 2500
CHICAGO, IL 60601

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OFFICE OF PETITIONS

In re Application of
Fred Chun-Chien TWU et al.
Application No. 10/157,172
Filed: May 29, 2002
Attorney Docket No. 37364-00

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 18, 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 July 19, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

A revocation of power of attorney by the assignee was filed with the petition on January 31, 2008. The revocation is not acceptable because the statement under 37 CFR 3.73(b) is improper.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The application file is being referred to Technology Center AU 1796 for appropriate action on the concurrently filed response.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

CC: **INEOS USA LLC**
3030 WARRENVILLE ROAD
S/650
LISLE, IL 60532

04 APR 2006

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

In re Application of BARRAS et al	:	
U.S. Application No.: 10/571,198	:	
PCT Application No.: PCT/EP02/06669	:	
Int. Filing Date: 17 June 2002	:	DECISION
Priority Date Claimed: 05 July 2001	:	
Attorney Docket No.: Q93357	:	
For: PORTABLE ELECTRONIC INSTRUMENT,	:	
SUCH AS A WRISTWATCH. . .	:	

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 09 March 2006.

BACKGROUND

On 17 June 2002, applicant filed international application PCT/EP02/06669, which claimed priority of an earlier European Patent Office application filed 05 July 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 16 January 2003. The thirty-month period for paying the basic national fee in the United States expired on 05 January 2004.

International application PCT/EP02/06669 became abandoned as to the United States for failure to timely pay the basic national fee.

On 09 March 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 17 June 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 09 March 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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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

Mail Date: 04/21/2010

Applicant	: Andrea Bauersachs	: DECISION ON REQUEST FOR
Patent Number	: 7600816	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/571,205	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/07/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **671** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 2007

WORKMAN NYDEGGER
60 E. SOUTH TEMPLE
SUITE 1000
SALT LAKE CITY, UT 84111

In re Application of KIRSCHNER et al	:	
U.S. Application No.: 10/571,208	:	
PCT Application No.: PCT/EP2004/010157	:	
Int. Filing Date: 10 September 2004	:	DECISION
Priority Date Claimed: 12 September 2003	:	
Attorney Docket No.: 16455.2	:	
For: METHOD FOR DETERMINATION OF THE DIRECTION TO AN OBJECT FOR SURVEYING	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 02 November 2007.

BACKGROUND

On 10 September 2004, applicant filed international application PCT/EP2004/010157, which claimed priority of an earlier European Patent Office application filed 12 September 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 24 March 2005. The thirty-month period for paying the basic national fee in the United States expired on 12 March 2006.

On 09 March 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 02 October 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 16 July 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 23 August 2007, applicant filed an executed declaration.

On 02 November 2007, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

Applicant is advised that it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure, Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 10 September 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 23 August 2007.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

In re Application of
SCHIEHLEN, Mattias
U.S. Application No. 10/571,239
Filing Date: November 10, 2006
Attorney Docket No. 12014.8038 US00
For: METHOD AND SYSTEM FOR COLLECTING DATA FROM A PLURALITY OF MACHINE READABLE DOCUMENTS

DECISION ON PETITION

This is a decision on the "Petition to Amend Specification to Correct Formality" filed September 24, 2008. The stated purpose of the petition is for "inserting reference to a claim of priority into the specification of the present application." As such, the petition has been treated as a petition under 37 CFR 1.78(a).

The petition is **dismissed** as moot for the reasons stated below.

As set forth in MPEP 1893.03(c), a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage under 35 U.S.C. § 371.

In view of the dismissal of the instant petition as moot, the $130 fee will be refunded to counsel Deposit Account.

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298. This matter is being referred to the appropriate Technology Center for examination in due course.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

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POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Sadao Ito	: DECISION ON REQUEST FOR
Patent Number	: 7611436	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/571,259	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/09/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **602** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re	:	
Patent No. 7,341,338	:	DECISION ON PETITION
Issued: March 11, 2008	:	
Application No. 10/571,272	:	
Filed: March 9, 2006	:	

This is a decision on the "PETITION UNDER 37 C.F.R. 1.182 TO PRINT DUPLICATE LETTERS PATENT", filed July 22, 2008.

The petition under 37 CFR 1.182 is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3207. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703)308-9250, extension 129.

A copy of this decision is being forwarded to the Publishing Division for issuance of a duplicate Letters patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Niomi Farmer, P/OPPD (FAX 571-270-9937)

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 05/07/2010

Applicant	: Jens Makuth	: DECISION ON REQUEST FOR
Patent Number	: 7663462	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/571,281	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/09/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1000** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 05/07/2010

Applicant	: Gottfried Rieger	: DECISION ON REQUEST FOR
Patent Number	: 7657492	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/571,282	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/09/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **201** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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14 DEC 2007

Proskauer Rose LLP
Patent Department
1585 Broadway
New York, NY 10036

In re Application of	DECISION ON
Ewald SREBOTNIK, et al	
Application No.: 10/571,301	
PCT No.: PCT/EP2004/010210	PETITION UNDER
Int. Filing Date: 13 September 2004	
Priority Date: 13 September 2003	37 CFR 1.181
Attorney's Docket No.: 20496-512	
For: METHOD FOR... LIGNOCELLULOSE-BASED PRODUCTS	

This Decision is in response to applicant's "PETITION T0 WITHDRAW HOLDING OF ABANDONMENT" filed on 29 November 2007 that the change in inventorship was completed in compliance with PCT *Rule 92 bis*. The petition requests the withdrawal of the abandonment mailed on 23 August 2007. No petition fee is required.

BACKGROUND

On 13 September 2004, this international application was filed, claiming an earliest priority date of 13 September 2003.

On 09 March 2006, applicants filed a Transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371 (c)(1); an English transaction of the international application as required by 35 U.S.C. 371(c)(2). No executed declaration or oath was submitted at such time.

On 24 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 1.47(a) and (b), identifying the application by International application number and international filing date" must be furnished. It also indicated that all the items set forth above must be submitted within two months from the date of this notice or by 32 months from the priority date for the application, whichever is later, failure to properly respond will result in abandonment.

On 24 January 2007, applicants submitted an executed Declaration, which was executed by Ewald Srebotnik, Thomas Kuncinger and Martin Steinwender.

On 21 May 2007, the DO/EO/US mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) which indicated that the current oath does not comply with 37 CFR 1.497(a) and (b) in that it: Thomas Kunginger and Martin Steinwender are not listed on the published application.

On 23 August 2007, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) which indicated that applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 10/24/2006 within the time period set therein.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 29 November 2007, petitioner has submitted the instant petition requesting withdrawal of the Notice of Abandonment. In support of the request, petitioner has provided a copy of the bibliographic data from the WIPO services website that shows that inventors Ewald Srebotnik, Thomas Kuncinger and Martin Steinwender are listed as inventors of the PCT.

DISCUSSION

A review of the Bibliographic data from the WIPO websited shows that inventors Ewald Srebotnik, Thomas Kuncinger and Martin Steinwender are listed as inventors of the PCT application PCT/EP2004/010210.

In view of the above, applicants executed Declaration submitted on January 24, 2007 is proper.

DECISION

Applicants' request to withdraw the "NOTIFICATION OF ABANDONMENT" is GRANTED. The NOTIFICATION OF ABANDONMENT, mailed 23 August 2007 has been VACATED.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C.§ 371(c)(1), (c)(2), and (c)(4) date is **24 January 2007**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

30 MAR 2006

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Fricke, Hilmar L.
E.I. Du Pont De Nemours and Company
Legal Patent Records Center
4417 Lancaster Pike
Wilmington DE 19805

In re Application of WAGNER et al. Application No.: 10/571,303 PCT No.: PCT/EP04/09807 Int. Filing: 02 September 2004 Priority Date: 06 September 2003 Attorney Docket No.: FA1202USPCT For: HEAT SENSITIVE RECORDING MEDIUM AND USE THEREOF	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 09 March 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $300 has been provided. The required petition fee of $1500 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b). Per applicant's authorization, his deposit account will be charged the $130 processing fee for filing the English translation after the thirty month period.

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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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Morihiro Matsumoto	: DECISION ON REQUEST FOR
Patent Number	: 7589285	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/571,310	: 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 **113** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/21/2010

Applicant	: Sylvain Routeau	: DECISION ON REQUEST FOR
Patent Number	: 7600569	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/571,326	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

Mail Date: 05/03/2010

Applicant	: Hisashi Kobayashi	: DECISION ON REQUEST FOR
Patent Number	: 7666268	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/571,348	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **289** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KENYON & KENYON LLP
One Broadway
New York, NY 10004

In re Application of EGGERS *et al* U.S. Application No.: 10/571,375 PCT No.: PCT/EP2004/009105 Int. Filing Date: 13 August 2004 Priority Date: 10 September 2003 Attorney Docket No.: 10537325 For: STEERING COLUMN ASSEMBLY COMPRISING A STEERING . . .	:	**DECISION ON PETITION** **TO WITHDRAW HOLDING** **OF ABANDONMENT**

This decision is in response to the "Petition to Withdraw Erroneous Holding of Abandonment" filed on 12 October 2007. No fee is required.

BACKGROUND

On 28 December 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee was required. A two-month time limit in which to respond was set with extensions of time available.

On 08 February 2007, applicant purportedly filed a response which contained, *inter alia*, an executed declaration, a power of attorney and authorization to charge the surcharge fee to Deposit Account No. 11-0600.

On 01 October 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicants failed to respond to the Form PCT/DO/EO/905 mailed 28 December 2006 within the time period set.

On 12 October 2007, applicants filed the subject petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, copies of the documents purportedly filed 08 February 2007 and a stamped postcard receipt for the 08 February 2007 documents.

DISCUSSION

A review of the subject application shows that the 08 February 2007 declaration purportedly filed in the above-captioned application was not located in the file. A power

of attorney signed 08 February 2007 was located in the file.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants have provided a copy of the date-stamped postcard receipt for documents submitted 08 February 2007. The postcard receipt records that among the papers received in the USPTO included a "Declaration + POA." The postcard receipt is stamped "Rec'd PCT/PTO 08 FEB 2007" across its face. The U.S. application number and docket number are listed on the postcard receipt. Moreover, applicants provided a copy of the declaration and response filed 08 February 2007.

Accordingly, applicants have provided *prima facie* evidence that the declaration and authorization to charge the required surcharge fee was received by the USPTO on 08 February 2007.

DECISION

For the reasons above, applicants' petition to withdraw the holding of abandonment is **GRANTED**.

The Form PCT/DO/EO/909 mailed 01 October 2007 is hereby **VACATED**.

The declaration originally filed 08 February 2007 is in compliance with 37 CFR 1.497(a) and (b). The $130.00 surcharge fee has been charged to Deposit Account No. 11-0600 as authorized.

This application is being forwarded to the Office of Patent Application Processing for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

11 APR 2006

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IPLA P.A.
3580 WILSHIRE BLVD.
17TH FLOOR
LOS ANGELES, CA 90010

In re Application of JEON	:	
U.S. Application No.: 10/571,398	:	
PCT Application No.: PCT/KR02/00743	:	
Int. Filing Date: 23 April 2002	:	
Priority Date Claimed: 24 November 2001	:	DECISION
Attorney Docket No.: 2017-65	:	
For: CASINO CHIP WITH ANTITHEFT AND	:	
ANTIFORGERY TAG CIRCUIT AND	:	
MANUFACTURING METHODS THEREOF	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 10 March 2006.

BACKGROUND

On 23 April 2002, applicant filed international application PCT/KR02/00743, which claimed priority of an earlier Korea application filed 24 November 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 05 June 2003. The thirty-month period for paying the basic national fee in the United States expired on 24 May 2004.

International application PCT/KR02/00743 became abandoned as to the United States for failure to timely pay the basic national fee.

On 10 March 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 23 April 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 10 March 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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25 MAR 2008

Basell USA Inc.
Delaware Corporate Center II
2 Righter Parkway, Suite #300
Wilmington DE 19803

In re Application of	:	DECISION ON
RESCONI et al.	:	
Serial No.: 10/571,403	:	
PCT No.: PCT/EP04/08761	:	PETITION
Int. Filing Date: 04 August 2004	:	
Priority Date: 11 September 2003	:	
Attorney's Docket No.: FE 6128 (US)	:	
For: MULTISTEP PROCESS FOR PREPARING	:	
HETEROPHASIC PROPYLENE COPOLYMERS	:	

This decision is in response to applicant's "PETITION UNDER 37 CFR 1.53 TO CORRECT FILING RECEIPT", filed 25 January 2008. No petition fee is required.

BACKGROUND

On 04 August 2004, applicant filed international application No. PCT/EP04/08761, which claimed a priority date of 11 September 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 11 March 2006.

On 10 March 2006, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and a declaration executed in accord with PCT Rule 4.17.

On 28 August 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.

Thereafter, on 13 November 2006, a response to the Notification of Missing Requirements, including a copy of the executed declaration previously filed, was submitted. These papers were accorded a filing date of 13 November 2006. On 17 September 2007, a Notice of Acceptance was mailed to applicant indicating that the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date was 13 November 2006.

On 25 January 2008, applicant filed the present petition, which included a copy of the Customer Receipt of the "Express Mail" mailing label #EQ024623699US.

DISCUSSION

A review of the USPTO records and the application file reveals that applicant filed an executed declaration under PCT Rule 4.17 with the Request. A copy of the declaration and Request was filed in the USPTO with the national stage filing on 10 March 2006. The declaration is in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

Applicant's petition requesting that the declaration be accorded a receipt date of 10 March 2006 is **GRANTED**.

The 28 August 2006 Notification of Missing Requirements and 17 September 2007 Notice of Acceptance, indicating that the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date was 13 November 2006, are hereby **VACATED.**

The application is being returned to the DO/EO/US for processing in accordance with this decision, including issuance of a new Notice of Acceptance indicating that the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **10 March 2006 and a new filing receipt.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 571-272-3286

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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In re Application of	:	
Klopp et al.	:	
Application Number: 10/571411	:	
Filing Date: 03/09/2006	:	ON PETITION
Attorney Docket Number:	:	
57056/M521	:	

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on June 6, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on May 29, 2008, for failure to timely submit the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on February 28, 2008, which, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on July 23, 2008.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

Receipt of the issue fee and publication fee filed with the subject petition is acknowledged.

The application is referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

Mail Date: 04/21/2010

Applicant	: Christian Griesshammer	: DECISION ON REQUEST FOR
Patent Number	: 7647760	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/571,413	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **674** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

Mail Date: 04/21/2010

Applicant	: Christian Griesshammer	: DECISION ON REQUEST FOR
Patent Number	: 7661259	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/571,416	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

21 APR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LANXESS CORPORATION
Patent Department
111 RIDC West Park Drive
Pittsburgh, PA 15275-1112

In re Application of:	
SEIDEL, Rudiger, et al.	DECISION ON PETITION
U.S. Application No.: 10/571,434	
PCT No.: PCT/EP2004/006229	
International Filing Date: 09 June 2004	
Priority Date: 13 June 2003	
Atty Docket No.: CH8420/LeA 36,762	
For: DEVICE FOR TREATING WATER USING IRON-DOPED IRON EXCHANGERS	

The petition for revival under 37 CFR 1.137(b) filed 13 March 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3).

Applicant has submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that the petition was accompanied by an English translation of the international application, the processing fee for filing the translation later than thirty months after the priority date, and an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 50-2527 will be charged the $130 surcharge for filing the declaration later than thirty months after the priority date.

This application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 13 March 2006.

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.:20100522

DATE : May 22, 2010

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7601729

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

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OFFICE OF PETITIONS

SMITH GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3592

In re Application of	:	
Fulvio Costa et al	:	
Application No. 10/571,454	:	ON PETITION
Filed: March 10, 2006	:	
Attorney Docket No. 033965008	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed February 5, 2009, which set a shortened statutory period for reply of three (3) months. Three month extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on August 6, 2009.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to Technology Center AU 1793 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

2 5 OCT 2007

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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

In re Application of	:	
FREY et al.	:	
Application No.: 10/571,459	:	
PCT No.: PCT/EP2004/008414	:	
Int. Filing Date: 28 July 2004	:	DECISION
Priority Date: 13 September 2003	:	
Attorney Docket No.: 31775-228881 RK	:	
For: METHOD FOR OPERATING A	:	
FRAGMENTATION SYSTEM AND SYSTEM	:	
THEREFOR	:	

This decision is in response to applicants' "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE", which has properly been treated as a petition under 37 CFR 1.497(d), filed 27 August 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 July 2004, applicants filed international application PCT/EP2004/008414 which designated the U.S. and claimed a priority date of 13 September 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 31 March 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 13 March 2006.

On 13 March 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 27 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that a declaration of inventors was required.

On 20 December 2006, applicants submitted, *inter alia*, a declaration of inventors.

On 30 July 2007, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating that the declaration of inventors filed 20 December 2006 was not in compliance with 37 CFR 1.497(a)-(b) because the executed

declaration listed five inventors while the published international application only listed four inventors.

On 27 August 2007, applicants submitted the instant "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE", which has properly been treated as a petition under 37 CFR 1.497(d).

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.

Items (1)-(3) have been satisfied. Item (4) is not required.

Declaration of Inventors

The declaration of inventors filed 20 December 2006 is not in compliance with 37 CFR 1.69(b); specifically applicants have not used one of the pre-approved foreign language forms nor have applicants furnished the requisite statement attesting to the accuracy of the translation.

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED** for the reasons set forth above.

Applicants are required to file either a pre-approved foreign language declaration in compliance with 37 CFR 1.497(a)-(b) or the requisite statement under 37 CFR 1.69(b) that the translation is accurate 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 reply will result in abandonment of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT

Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301

10/25/2007 SBASHEIR 00000004 220261 10571459
Sale Ref: 00000004 DA#: 220261 10571459
01 FC:1464 130.00 DA

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10 JAN 2007

COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY, NJ 08855

In re Application of POPOFF et al	:	
U.S. Application No.: 10/571,488	:	
PCT Application No.: PCT/US2004/029116	:	
Int. Filing Date: 08 September 2004	:	DECISION
Priority Date Claimed: 08 September 2003	:	
Attorney Docket No.: 7223-00	:	
For: HIGH EFFICACY GEL WITH LOW	:	
GLYCOL CONTENT	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 20 December 2006.

BACKGROUND

On 08 September 2004, applicant filed international application PCT/US2004/029116, which claimed priority of an earlier United States application filed 08 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 08 March 2006.

On 03 March 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by the basic national fee required by 35 U.S.C. 371(c)(1).

On 04 December 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned as to the United States for failure to timely pay the basic national fee.

On 20 December 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.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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Intervet/Schering-Plough Animal Health
Patent Dept. K-6-1, 1990
2000 Galloping Hill Road
Kenilworth, NJ 07033-0530

Mail Date: 04/20/2010

Applicant	: Paul Vermeij	: DECISION ON REQUEST FOR
Patent Number	: 7662390	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/571,490	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/09/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **321** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 MAY 2006

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EDWIN H. KEUSEY
KEUSEY, TUTUNJIAN & BITETTO, P.C.
20 Crossways Park North, Suite 210
Woodbury, NY 11797

In re Application of	: DECISION ON
Russell F. WEYMOUTH, JR.	:
Application No.: 10/571,491	:
PCT No.: PCT/US2004/013846	:
Int. Filing Date: 05 May 2004	: PETITION UNDER
Priority Date: 06 May 2003	:
Attorney's Docket No.: 100-13A	:
For: IN-LINE LENS MANUFACTURING	: 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 37 C.F.R. 1.137(b)," filed on 09 March 2006.

BACKGROUND

On 05 May 2004, this international application was filed, claiming an earliest priority date of 06 May 2003.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 06 November 2005. This international application became abandoned with respect to the United States at midnight on 06 November 2005 for failure to pay the required basic national fee.

On 09 March 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**.

The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **09 March 2006.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

30 MAR 2006

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KEUSEY, TUTUNJIAN & BITETTO, P.C.
20 CROSSWAYS PARK NORTH
SUITE 210
WOODBURY NY 11797

In re Application of WEYMOUTH	:	
Application No.: 10/571,493	:	
PCT No.: PCT/US04/13996	:	DECISION ON
Int. Filing: 05 May 2004	:	
Priority Date: 06 May 2003	:	PETITION UNDER
Attorney Docket No.: 100-13A	:	
For: IN-LINE LENS MANUFACTURING	:	37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 09 March 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the 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. Per applicant's authorization, his Deposit account will be charged the $130 surcharge for filing the declaration after the thirty month period. The 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date is 09 March 2006.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/30/2010

Applicant	: Fernando Pedro Cossio Mora	: DECISION ON REQUEST FOR
Patent Number	: 7638550	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/571,497	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **950** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.
10/571,507	03/10/2006	Daisuke Itoh	WAKAB97.001APC	4217

20995 7590 01/25/2010
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER
METZMAIER, DANIEL S

ART UNIT	PAPER NUMBER
1796	

NOTIFICATION DATE	DELIVERY MODE
01/25/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
eOAPilot@kmob.com

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wk

Mailed: JAN 25 2010

In re Application of
Ito et al.
Serial No. 10/571,507
Filed: March 10, 2006
For: Metal Nanoparticle Dispersion Usable For Ejection In The Form Of Fine Droplets To Be Applied In The Layered Shape

DECISION ON PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 to review the restriction requirement set forth on August 10, 2009 and made final by the Examiner on March 24, 2009. It is noted that the application is a national stage application and lack of unity of invention rules control.

When making a lack of unity of invention requirement, the examiner must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group.

The principles of unity of invention are used to determine the types of claimed subject matter and the combinations of claims to different categories of invention that are permitted to be included in a single international or national stage patent application. See MPEP § 1850 for a detailed discussion of Unity of Invention. The basic principle is that an application should relate to only one invention or, if there is more than one invention, that applicant would have a right to include in a single application only those inventions which are so linked as to form a single general inventive concept.

A group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature. The expression special technical features is defined as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art. For example, a corresponding technical feature is exemplified by a key defined by certain claimed structural characteristics which correspond to the claimed features of a lock to be used with the claimed key. Note also the examples contained in Chapter 10 of the

International Search and Preliminary Examination Guidelines which can be obtained from WIPO's web site (www.wipo.int/pct/en/texts/gdlines.htm).

The Examiner determined that Group II while including the limitations of Group I further required the inventive feature of a sintered product layer of nanoparticles not included in Group I.

DECISION

The petition is **Denied**.

It is noted that applicant has requested rejoinder.

/JACQUELINE STONE/

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Daniel E. Altman
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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UNION CARBIDE CHEMICALS AND
PLASTICS TECHNOLOGY CORPORATION
P.O. Box 1967
Midland, MI 48641-1967

Mail Date: 04/21/2010

Applicant	: Liping Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7615655	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/571,508	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **823** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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25 OCT 2006

KING & SPALDING LLP
1180 PEACHTREE STREET
ATLANTA, GA 30309

In re Application of WILLIAMS et al	:	
U.S. Application No.: 10/571,518	:	
PCT Application No.: PCT/US2004/030647	:	
Int. Filing Date: 20 September 2004	:	DECISION
Priority Date Claimed: 19 September 2003	:	
Attorney Docket No.: 07961.105006	:	
For: STABILIZED HALOPROPYNYL	:	
COMPOSITIONS AS PRESERVATIVES	:	

This is in response to the correspondence filed 22 May 2006, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 20 September 2004, applicant filed international application PCT/US2004/030647, which claimed priority of an earlier United States application filed 19 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 19 March 2006.

On 10 March 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, applicant filed the present request for status under 37 CFR 1.42 including executed declarations.

DISCUSSION

The declaration states that joint inventor Gareth Williams 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 executed by the legal representative of Gareth Williams is in compliance with 37 CFR 1.497.

CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 20 September 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 22 May 2006.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

BryanLin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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United States Patent and Trademark Office
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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, 7th FLOOR
SAN DIEGO, CA 92122

COPY MAILED

AUG 1 8 2008

In re Application of	:	
DODGSON, John	:	
Application No. 10/571,575	:	DECISION ON PETITION
Filed: March 19, 2007	:	TO WITHDRAW
Attorney Docket No. 39875-0005	:	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 6, 2008.

The request is NOT APPROVED.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request "the assigned has requested transfer to new counsel..." 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 the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: RYAN MURR
GOODWIN PROCTOR
4365 LA JOLLA VILLAGE, DRIVE, 3RD FLOOR
SAN DIEGO, CA 92122

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24 SEP 2007

06449
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K Street, N.W.
Suite 800
Washington, DC 20005

In re Application of :
ORAM, Kenneth :
U.S. Application No.: 10/571,595 :
PCT No.: PCT/GB04/03392 : **DECISION**
Int. Filing Date: 06 August 2004 :
Priority Date: 12 September 2003 :
Attorney's Docket No.: 3259104 :
For: THERMAL INSULATION MATERIAL :

The decision is in response to the "Petition Under 37 CFR §1.47(b)" submitted on 16 January 2007.

BACKGROUND

On 14 August 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. Petitioner was given two-months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 16 January 2007, the 37 CFR 1.47(b) applicant submitted the instant petition which was accompanied by, *inter alia*, a $130.00 petition fee; a $130.00 surcharge fee; a three-month extension and $1,020.00 extension fee; a declaration of facts by Robin J. Bartle ("Bartle Decl."); documentary evidence in the form of letters, postal receipts and a facsimile transmission cover sheet; and a declaration signed by the 37 CFR 1.47(b) applicant.

DISCUSSION

A petition under 37 CFR 1.47(b) requires (1) the petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be located, (3) a statement of the last known addresses of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. Item (5) is not yet satisfied.

Applicant submitted a $130.00 petition fee. The petition fee is now $200.00. The $70.00 difference has been charged to Deposit Account No. 02-2135 as authorized. Item (1) is satisfied.

Concerning item (2), the 37 CFR 1.47(b) has shown that a complete copy of the subject application was submitted to the last known address of Mr. Oram. Several other letters were provided to Mr. Oram. Moreover, Mr. Bartle attempted to contact the nonsigning inventor at his new place of employment by telephone. No response has been received. This conduct is sufficient to show a refusal pursuant to section 409.03(d) of the MPEP.

The last known address of the sole inventor was listed in the Bartle declaration satisfying item (3).

Regarding item (4), the 37 CFR 1.47(b) applicant provided a declaration signed by Alan Burgess, the Managing Director of TCL. A Managing Director is a position presumed to have the authority to sign for a foreign corporation. *See* MPEP § 324. The name, address and citizenship of the nonsigning inventor are also recorded on the declaration pursuant to 37 CFR 1.497(a) and (b).

With regard to item (6), section 409.03(g) of the Manual of Patent Examining Procedure (MPEP) states that "[i]rreparable damage may be established by a showing (a statement) that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage." In the petition, the 37 CFR 1.47(b) applicant includes such a statement of abandonment which is sufficient.

Therefore, items (1), (2), (3), (4) and (6) are complete.

However, with regards to item (5), section 409.03(f) of the MPEP states, in part:

When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that:

(A) the invention has been assigned to the applicant, or

(B) the inventor has agreed in writing to assign the invention to the applicant, or

(C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

If the application has been assigned, a copy of the assignment (in the English language) must be submitted. . . .

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. . . .
>
> 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.

Here, the 37 CFR 1.47(b) applicant claims proprietary interest in the above-captioned national stage application of PCT/GB04/03392 because the inventor made the invention "while employed by CRP Group Limited, the predecessor to Trelleborg CRP Limited." Bartle Decl. at ¶ 6. No other evidence was provided. This is clearly insufficient.

Petitioner must demonstrate that the invention was made while the inventor was working for CRP Group Limited and the invention was within the scope of the inventor's duties. A declaration by a person with first hand knowledge of these facts is required. A copy of any employment agreement should also be made of record. *See* MPEP § 409.03(f). After making a satisfactory showing above, the 37 CFR 1.47(b) applicant must then show that the above-identified invention was legally transferred to Trelleborg CRP Limited. If the company simply changed its name, documentary evidence of that fact is also required.

For these reasons, item (5) is not yet satisfied.

CONCLUSION

Applicant's petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required. Extensions of time are available.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor

10/571,595

Office of PCT Legal Administration

Tel.: (571) 272-3302

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25 APR 2008

06449
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K Street, N.W.
Suite 800
Washington, DC 20005

In re Application of	:	
ORAM, Kenneth	:	
U.S. Application No.: 10/571,595	:	
PCT No.: PCT/GB04/03392	:	**DECISION**
Int. Filing Date: 06 August 2004	:	
Priority Date: 12 September 2003	:	
Attorney's Docket No.: 3259104	:	
For: THERMAL INSULATION MATERIAL	:	

The decision is in response to the "Response to Decision Under 37 CFR §1.47(b)" submitted on 19 February 2008.

BACKGROUND

On 24 September 2007, a decision dismissing applicant's petition under 37 CFR 1.47(b) was mailed. Petitioner was given two-months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 19 February 2008, the 37 CFR 1.47(b) applicant submitted a response which included a three-month extension and fee, a declaration by Mr. Robert Gibson, and other documentary evidence.

DISCUSSION

A petition under 37 CFR 1.47(b) requires (1) the petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be located, (3) a statement of the last known addresses of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Item (5) of 37 CFR 1.47(b) was not satisfied in the initial petition.

The 37 CFR 1.47(b) applicant was requested to demonstrate that the invention was made while the inventor was working for CRP Group Limited and the invention was within the scope of the inventor's duties. A declaration by a person with first hand

knowledge of these facts was requested. The 37 CFR 1.47(b) applicant was also requested to show that the above-identified invention was legally transferred to Trelleborg CRP Limited.

In the renewed petition, the 37 CFR 1.47(b) has provided sufficient evidence showing that the invention was made by Mr. Oram while employed by CRP Group Limited and was within the scope of his duties. A declaration by Mr. Robert Gibson who claims first-hand knowledge in his capacity as Group Technology Director was submitted. A copy of Mr. Oram's employment contract was also provided as requested by the prior decision. An assignment transferring the subject invention from Broomco to Trelleborg CRP Limited was also submitted. This is sufficient to show that Trelleborg CRP Limited has sufficient proprietary interest in the above-captioned application.

Item (5) of 37 CFR 1.47(b) is now satisfied.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.47(b) is hereby **GRANTED**.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 06 August 2004, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 16 January 2007.

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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07 APR 2008

YOUNG & THOMPSON
745 South 23rd Street
Arlington VA 22202

In re Application of	:	DECISION ON
CACHON et al	:	
Application No.: 10/571,611	:	
PCT No.: PCT/FR2004/002315	:	PAPERS FILED
Int. Filing Date: 13 September 2004	:	
Priority Date: 11 September 2003	:	
Attorney's Docket No.: 0517-1071	:	UNDER 37 CFR 1.42
For: CELL FOR...OF MICRO-ORGANISMS	:	

This is a decision on the declaration filed 05 January 2007, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 10 March 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). Applicants, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an executed oath or declaration was not provided at such time.

On 06 November 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by International application number and international filing date" must be submitted within two months from date of this Notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 05 January 2007, applicant filed a "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 USC 371," which included, *inter alia*, an executed declaration. The declaration also indicated that Maryvonne DIVIES is the legal representative of the deceased inventor, Charles DIVIES.

On 11 January 2008, the United States Patent and Trademark Office mailed the Notification of Abandonment (PCT/DO/EO/909) since the applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 11/06/2006 within the time period set therein.

DISCUSSION

The declaration is accepted under 37 CFR 1.42 because it includes the citizenship and mailing addresses of Charles DIVIES and Maryvonne DIVIES (legal representatives). Accordingly, applicants have satisfied the requirements under 37 CFR 1.42.

The Notice of Abandonment mailed on 11 January 200 was in error because applicants had responded to Notice of Missing Requirements on 05 January 2007.

Thus, the requirements under 35 USC 371(c) are satisfied.

CONCLUSION

For the above reasons, the submission of the declaration under 37 CFR 1.42 is **ACCEPTED**. The NOTIFICATION OF ABANDONMENT, mailed **11 January 2008** has been **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations until commencement of national stage processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is **05 January 2007**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

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THE MAXHAM FIRM
9330 SCRANTON ROAD, SUITE 350
SAN DIEGO, CA 92121

Mail Date: 04/21/2010

Applicant	: David Adderton	: DECISION ON REQUEST FOR
Patent Number	: 7641180	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/571,619	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **551** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/4/10

Paper No.: —

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/571646 Patent No.: 7557706B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: item 22 only

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: _____

ANH HENG DO AD

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 07/27/2010

Applicant	: Anders Thalberg	: DECISION ON REQUEST FOR
Patent Number	: 7650877	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/571,676	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **334** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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14 JUL 2006

Roylance, Abrams, Berdo & Goodman, LLP
1300 19th Street, NW
Suite 600
Washington, DC 20036

In re Application of	:	
CHANG, Yong et al.	:	
Application No.: 10/571,680	:	DECISION
PCT No.: PCT/KR04/01721	:	
Int. Filing Date: 12 July 2004	:	ON PETITION UNDER
Priority Date: 12 July 2003	:	
Docket No.: 49888	:	37 CFR 1.137(b)
For: APPARATUS AND METHOD FOR ASSIGNING RESOURCE IN A MOBILE COMMUNICATION SYSTEM	:	

Applicants' "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 C.F.R. 1.137(b)," filed in the above-captioned application on 13 March 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. 18-2220, 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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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
EDWIN, et al.	:	
Application No. 10/571,685	:	DECISION ON PETITION
Filed: November 21, 2006	:	TO WITHDRAW
Attorney Docket No. **449122086900**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 17, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER LLP** has been revoked by the assignee of the patent application on September 11, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BELL BOYD & LLOYD, LLP**
P.O. BOX 1135
CHICAGO, IL 60690

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Alexandria, VA 22313-1450
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DR. MARK M. FRIEDMAN
C/O BILL POLKINGHORN - DISCOVERY DISPATCH
9003 FLORIN WAY
UPPER MARLBORO MD 20772

In re Application of PERL et al. Serial No.: 10/571,693 PCT No.: PCT/IL06/00260 Int. Filing Date: 27 February 2006 Priority Date: 28 February 2005 Attorney's Docket No.: 3577/2 For: SYSTEM AND METHOD FOR MEASURING CONTENT OF A BIN	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicant's "Petition to Withdraw Holding of Notification of Missing Requirements under 37 CFR 1.181(a)" filed 24 September 2008 in the United States Patent and Trademark Office (USPTO) in the above-captioned application.

BACKGROUND

On 13 March 2006, applicant filed the U.S. national stage application for international application PCT/IL06/00260, under 35 U.S.C. 371. These papers were assigned U.S. serial number 10/571,693.

On 03 September 2008, a Notification of Missing Requirements, was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month, was required.

On 21 September 2008, applicant responded to the Notification with a copy of the declaration, which had been filed with the original papers.

On 24 September 2008, applicant submitted the instant petition accompanied by a copy of the itemized postcard receipt with USPTO date-stamp 13 March 2006, indicating receipt of, *inter alia*, a declaration.

On 26 September 2008, a Notification of Acceptance was mailed to applicant indicating that applicant had fulfilled all of the requirements of 35 U.S.C. 371 and the requirements of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) on 21 September 2008.

DISCUSSION

It is noted that the declaration originally filed on 13 March 2006 is not found in the application file.

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.

In his response to the Notification of Missing Requirements, Applicant's statement that he "filed the attached the Combined Declaration with the National Phase Entry of the application" is construed as an indication that the declaration filed on 21 September 2008 was a copy of the declaration filed on 13 March 2006. If this interpretation is incorrect, applicant is required to promptly notify the Office of such and to submit a copy of the declaration which was filed on 13 March 2006. With his petition, Petitioner provided a copy of the USPTO date-stamped postcard receipt indicating that a declaration was filed along with the originally filed national stage application papers. The postcard identifies the applicant's name, title of the invention and docket number. Among the items listed on the postcard receipt are "Declaration". The postcard is date-stamped by the USPTO "OIPE MAR 13 2006".

A review of the USPTO date-stamped, itemized postcard receipt indicates that the declaration was deposited with the USPTO on 13 March 2006. Applicant has now presented a copy of the papers originally filed on 13 March 2006 and provided a copy of the date-stamped postcard receipt. Thus, the evidence is sufficient to establish that the declaration was received in the USPTO on 13 March 2006 and that the postcard receipt indicating a date of 13 March 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 13 March 2006.

In addition, it is noted that the $65 surcharge for filing the declaration after the thirty month period was paid on 21 September 2006. In light of this decision, the surcharge is unnecessary and will be refunded.

CONCLUSION

Applicant's petition under 37 CFR 1.181 to accept a copy of the declaration originally filed on 13 March 2006 is **GRANTED**. Applicant's request for a refund of $65 is hereby **GRANTED**.

The 26 September 2008 Notification of Acceptance is hereby **VACATED**.

A copy of the declaration originally submitted on 13 March 2006 and resubmitted on 21 September 2008 is acceptable for the reasons set forth above and meets the requirements of 37 CFR 1.497(a) and (b).

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing including a new Notification of Acceptance with a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 13 March 2006.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3286

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Michael Wieler	: DECISION ON REQUEST FOR
Patent Number	: 7619499	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/571,710	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **444** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 AND CO., INC
P O BOX 2000
RAHWAY NJ 07065-0907

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OCT 01 2009

OFFICE OF PETITIONS

In re Patent No. 7,514,459
Issued: April 7, 2009
Application No. 10/571,717
Filed: March 9, 2006
Attorney Docket No. T1634YP

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed April 21, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred sixty-six (566) days to five hundred ninety-five (595) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On April 7, 2009, the above-identified application matured into US Patent No. 7,514,459 with a patent term adjustment of 566 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to a total patent term adjustment of 595 days, the sum of 29 days of patent term adjustment due to exceeding three year pendency and 566 days due to USPTO delay in prosecution.

The 29-day period is calculated based on the application having been filed under 35 U.S.C. 371 on March 9, 2006, and the patent having been issued on April 7, 2009, three years and 29 days later. Patentees assert that in addition to this 29-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 566 days for the failure by the Office to mail at least one of a notification

under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. In this instance there is no dispute that there has been no reduction for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (29 days) and the period of Examination Delay (566 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 595 days, which is the sum of the period of Three Year Delay (29 days) and the period of Examination Delay (566 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 595 days (566 + 29 reduced by 0 overlap – 0 (applicant delay)).

The Office agrees that as of the issuance of the patent on April 7, 2009, the application was pending three years and 14 days after its filing date.[1]

The Office agrees also that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 566 days is correct. At issue is whether patentees should accrue 14 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 566 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 14 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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[1]Patentees are advised that the instant application was filed under 35 U.S.C. 371.

37 CFR 1.702(b) indicates that a patent is entitled to patent term adjustment if, subject to a number of limitations, the Office fails to issue a patent within three years of the actual filing date of the application (35 U.S.C. 154(b)(1)(B)). In the case of an international application, the phrase "actual filing date of the application in the United States" means the date the national stage commenced under 35 U.S.C. 371(b) or (f). See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term, 65 FR 56366, 56382-84, (Sept. 18, 2000), 1239 Off. Gaz. Pat. Office 14, 28-30 (Oct. 3, 2000).

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A).

As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[2]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the commencement date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, March 24, 2006, to the date the patent issued on April 7, 2009. Prior to the issuance of the patent, 566 days of

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[2] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application plus 14 days for failure to issue the patent within three years of the commencement. All of the 14 days for Office delay in issuing the patent overlap with the 566 days of Office delay. During that time, the issuance of the patent was delayed by 566 days, not 566 + 14 days. The Office took 14 months and 566 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the initial 566 days of Office delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 14 days. The Office did not delay 566 days and then an additional 14 days. Accordingly, 566 days of patent term adjustment (not 566 and 14 days) was properly entered since the period of delay of 14 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 566 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 566 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 14 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

06 APR 2006

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Lanxess Corporation
111 RIDC Park West
Pittsburgh, PA 15275-112

In re Application of	:	
MESEQUER, Benjamin	:	
Application No.: 10/571,722	:	DECISION ON PETITION
PCT No.: PCT/EP04/05930	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 02 June 2004	:	
Priority Date: 13 June 2003	:	
Attorney Docket No.: CH8412/LeA36,555	:	
For: CHIRAL LIGANDS FOR APPLICATION IN ASYMMETRIC SYNTHESIS	:	

The petition to revive under 37 CFR 1.137(b) filed 13 March 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/571,723	03/14/2006	Koji Naniwada	97929096633	3216

EXAMINER

7590 12/13/2007
SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
12/13/2007	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☑ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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CURATOLO SIDOTI CO., LPA
24500 CENTER RIDGE ROAD, SUITE 280
CLEVELAND, OH 44145

Mail Date: 04/21/2010

Applicant	: Terje Angelskaar	: DECISION ON REQUEST FOR
Patent Number	: 7662230	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/571,728	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/08/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

18 APR 2006

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MCKENNA LONG & ALDRIDGE LLP
1900 K Street, NW
Washington, DC 20006

In re Application of	:	
BAEK, Seung-Myun	:	
U.S. Application No.: 10/571,755	:	
PCT No.: PCT/KR2004/000104	:	**DECISION ON**
Int. Filing Date: 20 January 2004	:	**PETITION FOR REVIVAL**
Priority Date: 30 May 2003	:	**UNDER 37 CFR 1.137(b)**
Attorney Docket No.: 7950.051.00	:	
For: HOME NETWORK SYSTEM	:	

Applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 13 March 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.

No declaration was provided.

Accordingly, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee is required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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INTELLECTUAL PROPERTY DEPARTMENT
P.O. BOX 10064
MCLEAN VA 22102-8064

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AUG 25 2008

OFFICE OF PETITIONS

In re Application of	:	
BENDER, Howard J.	:	
Application No. 10/571,760	:	DECISION ON PETITION
Filed: March 13, 2006	:	TO WITHDRAW
Attorney Docket No. **031768-05**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 29, 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 Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, (**applicant would like to continue prosecution per se, without assistance of the attorney**) 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 Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **HOWARD J. BENDER**
11970 GREY SQUIRREL LANE
RESTON, VA 20194

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Mail Date: 04/21/2010

Applicant	: Masaki Momose	: DECISION ON REQUEST FOR
Patent Number	: 7638298	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/571,779	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **588** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 3600

KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
Suite 400
WASHINGTON DC 20005

In re Application of:	:	DECISION ON REQUEST TO
Hiroshi KAMIKI	:	PARTICIPATE IN PATENT
Application No.: 10/571,782	:	PROSECUTION HIGHWAY PILOT
Filed: March 14, 2006	:	PROGRAM AND PETITION TO
Attorney Docket No.: 060193	:	MAKE SPECIAL UNDER 37 CFR
For: KEY FOR VEHICLE AND	:	1.102(d)
DRUNKEN DRIVING	:	
PREVENTING DEVICE	:	

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed August 10, 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).

In light of the IDS and preliminary amendment filed August 10, 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.

Telephone inquires concerning this decision should be directed to Robert Weinhardt at 571-272-6633.

All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Robert Weinhardt
TC3600
Business Practice Specialist

RW 11/18/07

15 JUN 2006

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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

In re Application of	:	
Waters	:	
Application No.: 10/571,796	:	DECISION
PCT No.: PCT/US02/35665	:	
Int. Filing Date: 07 November 2002	:	ON
Priority Date: 07 November 2001	:	
Attorney Docket No.: 7122/73853 PC	:	PETITION
For: Lighted Reading Glasses	:	

The petition to revive under 37 CFR 1.137(b) filed 15 March 2006 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, May 7, 2004, until the filing of the grantable petition under 37 C.F.R. 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
for Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

George M. Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

11 APR 2006

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

In re Application of JOSHI et al	:	
U.S. Application No.: 10/571,798	:	
PCT Application No.: PCT/US04/28596	:	
Int. Filing Date: 01 September 2004	:	DECISION
Priority Date Claimed: 05 September 2003	:	
Attorney Docket No.: 220772011100	:	
For: CATALYST MODULE OVERHEATING	:	
DETECTION AND METHODS OF	:	
RESPONSE	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 14 March 2006.

BACKGROUND

On 01 September 2004, applicant filed international application PCT/US04/28596, which claimed priority of an earlier United States application filed 05 September 2003. The thirty-month period for paying the basic national fee in the United States expired on 05 March 2006.

International application PCT/US04/28596 became abandoned as to the United States for failure to timely pay the basic national fee.

On 14 March 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

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OFFICE OF PETITIONS

In re Application of
Ajay JOSHI, et al.
Application No. 10/571,798
Filed: August 15, 2006
Attorney Docket No. 220772011100

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed November 14, 2006.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper or **no statement under 3.73(b) was filed**.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **LOCKE LIDDELL & SAPP LLP**
600 TRAVIS
3400 CHASE TOWER
HOUSTON, TX 77002-3095

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BRIARCLIFF MANOR NY 10510

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In re Application of	:	
Walid Ali	:	
Application No. 10/571,809	:	ON PETITION
Filed: March 15, 2006	:	
Attorney Docket No. US030406US	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed April 3, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the Office action mailed July 25, 2008. This Office action set a shortened statutory period for reply of one (1) month. No reply having been received, the application became abandoned on August 26, 2008. The Office mailed a Notice of Abandonment on January 30, 2009.

With the instant petition, petitioner made the proper statement of unintentional delay, paid the petition fee, and submitted the required reply in the form of an Election.

The application is being forwarded to Group Art Unit 3769 for consideration of the Election filed April 3, 2009.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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CLEVELAND OH 44114-3108

16 NOV 2006

In re Application of	:	
Moriya et al.	:	
Application No.: 10/571,846	:	
PCT No.: PCT/JP04/15273	:	
Int. Filing Date: 15 October 2004	:	DECISION
Earliest Priority Date: 16 October 2003	:	
Attorney Docket No.: 39851	:	
For: High-Frequency Heating Apparatus	:	

This is in response to the papers filed on 15 March 2006.

BACKGROUND

International application PCT/JP04/15273 was filed on 15 October 2004, claimed an earliest priority date of 16 October 2003, and designated the United States. The International Bureau communicated a copy of the published international application to the USPTO on 28 April 2005. The 30-month period for payment of the basic national fee in the U.S. expired as of midnight on 17 April 2006 (since 16 April 2006 was a Sunday). On 15 March 2006, applicants filed *inter alia* the basic national fee, an executed declaration, and a Transmittal Letter which were assigned to the instant national stage application number.

DISCUSSION

Inspection of the instant papers reveals a discrepancy in the international application number to which they are directed. Specifically, the Transmittal Letter is directed to international application number PCT/US04/15273, while the declaration is directed to international application number PCT/JP04/15273 Review of the available records reveals that the published title of international application PCT/US04/15273 is Electron Beam Enhanced Large Area Deposition System, and that it names Scott Walton et al. as inventors/applicants. Meanwhile, international application PCT/JP04/15273 is entitled High Frequency Heating Apparatus, and nominates Hideaki Moriya et al. as applicants/inventors. Both the instant declaration and Transmittal Letter share the title and applicants/inventors (with one exception, noted below) shown on the publication for PCT/JP04/15273.

Though it appears that counsel may have intended the instant papers to be directed to the national stage of international application PCT/JP04/15273, a proper petition under 37 CFR 1.182 (and associated petition fee) is required in order to correct the discrepancy noted *supra*.

It is further noted that the declaration filed on 15 March 2006 is defective because nominates an inventor, Hisashi Morikawa, whose name does not appear on published international application PCT/JP04/15273.

CONCLUSION

Applicants have **TWO (2) MONTHS** from the mailing date of this decision, extendable under 37 CFR 1.136(a), to file a response clarifying the status of the papers submitted on 15 March 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.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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In re Application of	:	
Moriya et al.	:	
Application No.: 10/571,846	:	
PCT No.: PCT/JP04/15273	:	
Int. Filing Date: 15 October 2004	:	DECISION
Earliest Priority Date: 16 October 2003	:	
Attorney Docket No.: 39851	:	
For: High-Frequency Heating Apparatus	:	

This is in response to the petition under 37 CFR 1.182 filed on 11 June 2007.

DISCUSSION

In a Decision mailed on 16 November 2006, the following was observed:

Inspection of the instant papers reveals a discrepancy in the international application number to which they are directed. Specifically, the Transmittal Letter is directed to international application number PCT/US04/15273, while the declaration is directed to international application number PCT/JP04/15273 Review of the available records reveals that the published title of international application PCT/US04/15273 is Electron Beam Enhanced Large Area Deposition System, and that it names Scott Walton et al. as inventors/applicants. Meanwhile, international application PCT/JP04/15273 is entitled High Frequency Heating Apparatus, and nominates Hideaki Moriya et al. as applicants/inventors. Both the instant declaration and Transmittal Letter share the title and applicants/inventors (with one exception, noted below) shown on the publication for PCT/JP04/15273.
Though it appears that counsel may have intended the instant papers to be directed to the national stage of international application PCT/JP04/15273, a proper petition under 37 CFR 1.182 (and associated petition fee) is required in order to correct the discrepancy noted *supra*.

It is further noted that the declaration filed on 15 March 2006 is defective because nominates an inventor, Hisashi Morikawa, whose name does not appear on published international application PCT/JP04/15273.

The Decision set a period for response as follows:

Applicants have **TWO (2) MONTHS** from the mailing date of this decision, extendable under 37 CFR 1.136(a), to file a response clarifying the status of the papers submitted on 15 March 2006.

On 05 June 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the decision mailed on 16 November 2006.

The instant "2nd Request & Petition" refers to a "request and petition that was originally submitted to the Patent Office on November 16, 2006." A document entitled "Request & Petition" seeking relief under 37 CFR 1.182 and bearing a Certification of Facsimile Transmission dated 16

November 2006 (which is the same date the previous Decision was mailed) is included in the instant submission. 37 CFR 1.8(b) provides that

> 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.

Petitioner has not satisfied 37 CFR 1.8(b)(3) because it is not accompanied by a suitable statement attesting on the basis of first-hand knowledge to the alleged previous timely mailing or transmission. It is noted that a copy of a fax cover sheet dated 16 November 2006 is included, but this does not obviate the need for an appropriate statement. Thus, it would not be appropriate on the basis of the record to regard the correspondence in question as timely. Accordingly, the application remains in **ABANDONED** status.

As this application remains abandoned, it would not be appropriate to treat the merits under 37 CFR 1.182 at this time. However, it is generally observed that the petition is accompanied by a Transmittal Letter directed to international application PCT/JP2004/015273, but that it appears to lack a substantive explanation of the manner in which the discrepancy arose. Petitioner should ensure that the petition is complete if and when a further response is filed.

CONCLUSION

The petition to withdraw the holding of abandonment is **DISMISSED**, without prejudice

Decision on the petition under 37 CFR 1.182 is held in **ABEYANCE** in view of the abandoned status of this application.

Applicants have **TWO (2) MONTHS** from the mailing date of this decision, extendable under 37 CFR 1.136(a), to file a response.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

0 7 JAN 2008

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CLEVELAND OH 44114-3108

In re Application of	:	
Moriya et al.	:	
Application No.: 10/571,846	:	
PCT No.: PCT/JP04/15273	:	
Int. Filing Date: 15 October 2004	:	DECISION
Earliest Priority Date: 16 October 2003	:	
Attorney Docket No.: 39851	:	
For: High-Frequency Heating Apparatus	:	

This is in response to the petition under 37 CFR 1.182 filed on 29 November 2007.

DISCUSSION

In a Decision mailed on 01 October 2007, in response to the petition filed on 11 June 2007, and regarding the abandoned status of the application, petitioner was advised that

> Petitioner has not satisfied 37 CFR 1.8(b)(3) because it is not accompanied by a suitable statement attesting on the basis of first-hand knowledge to the alleged previous timely mailing or transmission. It is noted that a copy of a fax cover sheet dated 16 November 2006 is included, but this does not obviate the need for an appropriate statement. Thus, it would not be appropriate on the basis of the record to regard the correspondence in question as timely. Accordingly, the application remains in **ABANDONED** status.

In response, petitioner has pointed out the location of the Certification of Facsimile Transmission on the first page of the "Request & Petition" allegedly faxed on 16 November 2006. However, petitioner still does not appear to have provided the required statement attesting on the basis of first-hand knowledge to the alleged previous timely mailing or transmission. Petitioner's attention is respectfully directed to MPEP 512,which explains in part that

> 1.8(b) permits a party to notify the Office of a previous mailing, or transmitting, of correspondence when a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence. In the event that correspondence may be considered timely filed because it was mailed or transmitted in accordance with 37 CFR 1.8(a), but was not received in the Office after a reasonable amount of time has elapsed, (e.g., more than one month from the time the correspondence was mailed), applicant is not required to wait until the end of the maximum extendable period for reply set in a prior Office action (for the Office to hold the application abandoned) before informing the Office of the previously submitted correspondence. Applicant may notify the Office of the previous mailing or transmission and supply a duplicate copy of the previously mailed or transmitted correspondence *and a statement attesting on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the person signing the statement did not sign the certificate of mailing, then the person signing the statement should explain how they have firsthand knowledge of the previous timely mailing or transmission. Such a statement should be filed promptly after the person becomes aware that the Office has not received the correspondence* (italics added).

Since the required statement has not been provided, it would not be appropriate at this time to grant the requested relief under 37 CFR 1.8(b). Therefore, this international application remains ABANDONED with respect to the national stage in the United States. As this application remains abandoned, it would not be appropriate to treat the merits under 37 CFR 1.182 at this time.

CONCLUSION

The petition to withdraw the holding of abandonment is **DISMISSED**, without prejudice

Decision on the petition under 37 CFR 1.182 is held in **ABEYANCE** in view of the abandoned status of this application.

Applicants have **TWO (2) MONTHS** from the mailing date of this decision, extendable under 37 CFR 1.136(a), to file a response.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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In re Application of	:	
Moriya et al.	:	
Application No.: 10/571,846	:	
PCT No.: PCT/JP04/15273	:	
Int. Filing Date: 15 October 2004	:	DECISION
Earliest Priority Date: 16 October 2003	:	
Attorney Docket No.: NGB-39851	:	
For: High-Frequency Heating Apparatus	:	

This is in response to the renewed petition under 37 CFR 1.182 filed on 17 January 2008.

DISCUSSION

In a Decision mailed on 07 January 2008, the merits under 37 CFR 1.182 of the petition filed on 29 November 2007 were not reached because petitioner had not established timely receipt of the response allegedly filed on 16 November 2006. Specifically, petitioner had not provided "*a statement attesting on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission*" as required under 37 CFR 1.8(b). Petitioner has now provided such a statement, made by Jeffrey J. Sopko. As such, all of the requirements of 37 CFR 1.8(b) have now been satisfied. Accordingly, the copy of the petition under 37 CFR 1.182 filed on 11 June 2007 is considered as a timely response to the Decision mailed on 16 November 2006. Therefore, the Notification of Abandonment mailed on 05 June 2007 is hereby **VACATED**.

Turning to the merits of the petition under 37 CFR 1.182, petitioner has characterized the discrepancy in the international application number on the Transmittal Letter as "due to a typographical error," and has submitted a corrected Transmittal Letter directed toward the correct international application, PCT/JP2004/015273. In view of the totality of the circumstances present in this case, it would be appropriate to grant the requested relief. Accordingly, this application will continue processing as the national stage in the United States of PCT/JP2004/015273.

As noted in the Decision mailed on 16 November 2006, the declaration filed on 15 March 2006 nominates an inventor, Hisashi Morikawa, who was not nominated as an inventor in the published international application, PCT/JP2004/015273 (INID code [71] pertains to applicants, while INID code [72] pertains to inventors and INID code [75] pertains to inventors who are also applicants. *See* MPEP 901.05(b)). Hisashi Morikawa is shown to be an applicant but not an inventor in the published international application, but is nominated as an inventor in the declaration. This is also true of the declaration filed on 29 November 2007.

DECISION

The petition to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the Office of Patent Application Processing for further processing as the national stage under 35 U.S.C. 371 of PCT/JP2004/015273. Said processing will include the preparation of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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In re Application of	:	
Moriya et al.	:	
Application No.: 10/571,846	:	
PCT No.: PCT/JP04/15273	:	
Int. Filing Date: 15 October 2004	:	DECISION
Earliest Priority Date: 16 October 2003	:	
Attorney Docket No.: NGB-39851	:	
For: High-Frequency Heating Apparatus	:	

This is in response to the "letter" filed on 10 June 2008.

DISCUSSION

In a Decision mailed on 01 April 2008, it was indicated that

> As noted in the Decision mailed on 16 November 2006, the declaration filed on 15 March 2006 nominates an inventor, Hisashi Morikawa, who was not nominated as an inventor in the published international application, PCT/JP2004/015273 (INID code [71] pertains to applicants, while INID code [72] pertains to inventors and INID code [75] pertains to inventors who are also applicants. *See* MPEP 901.05(b)). Hisashi Morikawa is shown to be an applicant but not an inventor in the published international application, but is nominated as an inventor in the declaration. This is also true of the declaration filed on 29 November 2007...
>
> This application is being forwarded to the Office of Patent Application Processing for further processing as the national stage under 35 U.S.C. 371 of PCT/JP2004/015273. Said processing will include the preparation of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).
>
> On 03 June 2008, the Notification of Missing Requirements was mailed.

In response, applicants indicate that "The Notification of Missing Requirements was issued because Hisashi Morikawa was listed as an inventor on the declaration even though he was not listed as an inventor on the International Application. As indicated in the Notification of the Recording of a Change, the correction was made to the International Application to reflect that Hisashi Morikawa is an inventor, as listed in the Oath and Declaration submitted with the above-identified application on March 15, 2006." Applicants' letter is accompanied by a copy of a Notification Of The Recording Of A Change (Form PCT/IB/308) mailed on 22 March 2006, indicating that the status of MORIKAWA Hisashi had been changed to "Applicant for US only and Inventor for all designated states." In view of the totality of the evidence now of record, it now would be appropriate to accept the declaration as filed on 15 March 2006.

DECISION

The declaration filed on 15 March 2006 is **ACCEPTED**.

This application is being forwarded to the Office of Patent Application Processing for further processing as the national stage under 35 U.S.C. 371 of PCT/JP2004/015273. The date of the application under 35 U.S.C. 371(c)(1), (2) and (4) is **15 March 2006**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

04 APR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Lanxess Corporation
111 RIDC West Park Drive
Pittsburgh PA 15275-1112

In re Application of KLIPPER et al. Serial No.: 10/571,883 PCT App. No.: PCT/EP04/05877 Int'l Filing Date: 01 June 2004 Priority Date: 13 June 2003 Attorney Docket No.: CH8413/LeA 36, 760 For: ARSENIC-ADSORBING ION EXCHANGER	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 13 March 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $300 has been provided. The required petition fee of $1500 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. Per applicant's authorization, the surcharge for filing the oath or declaration after the thirty month period will be charged to applicant's deposit account. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 13 March 2006.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

03 MAY 2006

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William C Rowland
P O Box 1404
Alexandria VA 22313-1404

In re Application of	:	
NEWMAN et al.	:	
Application No.: 10/571,909	:	DECISION ON
PCT No.: PCT/GB04/02618	:	
Int. Filing Date: 17 June 2004	:	PETITION UNDER
Priority Date: 18 June 2003	:	
Attorney Docket No.: 1000035-000070	:	37 CFR 1.137(b)
For: METHOD AND APPARATUS FOR THE	:	
APPLICATION OF POWDER MATERIAL	:	
TO SUBSTRATES	:	

This decision is in response to applicants' submission filed 14 March 2006.

BACKGROUND

On 17 June 2004, applicant filed international application PCT/GB04/02618 which designated the U.S. and claimed a priority date of 18 June 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 29 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 December 2005 (18 December 2005 being a Sunday).

On 14 March 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 declaration of inventors, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 14 March 2006.

As to item (2), applicant submitted the petition fee on 14 March 2006.

As to item (3), petitioner's statement that "*Applicant's attorney has been advised* that the entire delay in filing the required reply, i.e., the national stage filing, 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" (emphasis added) has been construed as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional." If this interpretation is incorrect, applicant must *immediately* notify the Office of PCT Legal Administration of such fact.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

The declaration of the inventors filed 14 March 2006 is in compliance with 37 CFR 1.497(a)-(b). The surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage has been charged to Deposit Account 02-4800.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 8910
Reston, VA 20195

MAILED

MAY 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Alexander Szakaly	:	
Application No. 10/571,945	:	DECISION ON PETITION
Filed: March 13, 2006	:	TO WITHDRAW
Attorney Docket No. 10400C-000216/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 February 25, 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 Joseph A. Castellano on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed December 19, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Alexander Szakaly**
Morstigen 8, SE-518 40
Sjomarken
Sweden

cc: **Mentor Graphics Corporation**
SW Boeckman Road
Wilsonville, OR 97070

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/571,945	10/10/2006	Alexander Szakaly	10400C-000216/US

CONFIRMATION NO. 1313

POWER OF ATTORNEY NOTICE

30593
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

OC000000035852177

Date Mailed: 05/07/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/25/2009.

- 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.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

DATE 9/18/07

APPLICATION NUMBER 10/571,944

DOC CODE PET.OEL. OAPC

DOC DATE 9/18/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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18 SEP 2007

C. Bruce Hamburg
Jordan and Hamburg, LLP
122 East 42nd Street, Suite 4000
New York, NY 10168

In re Application of	:	
ZAPF, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/571,947	:	
PCT No.: PCT/EP04/10136	:	UNDER 37 CFR 1.497(d)
Int. Filing Date: 10 September 2004	:	
Priority Date: 11 September 2003	:	
Atty Docket No.: F-9019	:	
For: INDUCTIVE SWITCH	:	

This decision is in response to applicant's "Request to Correct Inventorship Under 37 C.F.R. § 1.497(d)" filed 08 February 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 10 September 2004, applicant filed international application PCT/EP04/10136, which claimed priority of an earlier application filed 11 September 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 March 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 11 March 2006.

On 13 March 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 preliminary amendment, an assignment document for recording and a signed declaration.

On 08 December 2006, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant that the filed declaration included an inventor, Reinhard Pirner, who was not listed on the published international application. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 08 February 2007, applicant responded with the present petition.

DISCUSSION

A request under 37 CFR 1.497(d) [formally, 37 CFR 1.48] to correct an error in naming inventorship requires:

(1) a petition including a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

(3) the fee set forth in 37 CFR 1.17(h); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

As to Item (1), applicant has provided a statement from Reinhard Pirner declaring that the error in inventorship occurred without deceptive intent.

Regarding Item (2), on 13 March 2006 applicant filed a combined declaration and power of attorney executed by the inventors listed on the published international application, as well as, Reinhard Pirner.

As Item (3), applicant has provided payment of the $130.00 petition fee.

Regarding Item (4), applicant has provided a statement from the assignee consenting to the addition of Reinhard Pirner 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.

CONCLUSION

For the reasons discussed above, the request under 37 CFR 1.497(d) is **GRANTED**.

A review of the application papers reveals that applicant has now completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application has an international application filing date of 10 September 2004 and will be given a date of **13 March 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

27 JUN 2006

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Jeffrey A Mckinney
Sheppard Mullin Richter & Hampton LLP
333 S Hope Street 48th Floor
Los Angeles CA 90071

In re Application of	:	DECISION ON
Jan Prochazka	:	
Application No.: 10/571,981	:	
PCT No.: PCT/CZ2003/000019	:	
Int. Filing Date: 13 March 2003	:	PETITION UNDER
Priority Date: NA	:	
Attorney's Docket No.: 07TJ-122081	:	
For: Manufacturing of Photocatalytic, Antibacterial,	:	
Selfcleaning and Optically ... Products	:	37 CFR 1.137(b)

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)," filed on 14 March 2006.

BACKGROUND

On 13 March 2003, this international application was filed.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 13 March 2005. This international application became abandoned with respect to the United States at midnight on 13 March 2005 for failure to pay the required basic national fee.

On 14 March 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 being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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ALEXANDRIA, VA 22313-1450

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

Applicant: Bradbury, et al.
Appl. No.: 10/571,991
International Filing Date: September 15, 2004
Title: QUINAZOLINE DERIVATIVES
Attorney Docket No.: 09963.0008
Pub. No.: US 2008/0096881 A1
Pub. Date: April 24, 2008

COPY MAILED
MAR 10 2009
OFFICE OF PETITIONS

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 24, 2008, for the above-identified application. Applicant requests that the application be republished because the patent application publication contains a material error in paragraph [0034].

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error in paragraph [0034] of the specification, wherein the subscript "m" in the formula is misprinted as "n".

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 in the publication wherein the subscript "m" is misprinted as "n" in paragraph [0034] may be an Office error, but it is a not material Office error under 37 CFR 1.221. The error is due to the quality of the text, which is small and blurry. The text is not clear due to the size and it's blurry, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52 and PCT Rule 11.9(d)(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).

Applicant is advised that he may want to file application papers that are clearer, as the error is due to the quality of the text. The text is small and blurry, which makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52 and PCT Rule 11.9(d)(1).

Applicants are advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

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 any questions or request for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/571,991	03/15/2006	Laurent Francois Andre Hennequin	09963.0008	5523

22852 7590 10/26/2009
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER
WILLIS, DOUGLAS M

ART UNIT	PAPER NUMBER
1624	

MAIL DATE	DELIVERY MODE
10/26/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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 October 2009

Thomas L. Irving
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of: Hennequin et al.
Serial No.: 10/571991

Filed: March 15, 2006
Docket: 09963.0008
Title: QUINAZOLINE DERIVATIVES

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on June 23, 2009 to make the above-identified application special under 37 C.F.R. § 1.102(d).

MPEP §708.02 states:

> Any petition to make special, other than those based on applicant's health or age or the Patent Prosecution Highway (PPH) pilot program, filed on or after August 25, 2006 must meet the requirements for the revised accelerated examination program set forth in MPEP § 708.02(a). See subsections III and IV below for the requirements for filing a petition to make special based on applicant's health or age.
>
> Applications filed prior to August 25, 2006 are not eligible for the revised accelerated examination program set forth in MPEP § 708.02(a). Until August 25, 2006, applicant may file a petition to make special in an application filed prior to August 25, 2006 by complying with the guidelines and requirements set forth in subsections I-II, and V-XII below.
>
> A petition to make special filed on or after August 25, 2006 will only be granted if it is based upon applicant's health or age or is under the PPH pilot program, or if it complies with the requirements set forth in MPEP § 708.02(a).

While the instant application was filed before August 25, 2006 the instant petition was not filed until June 23, 2009 and thus the last paragraph cited above controls. The instant petition does not meet the requirements set forth in the above.

The petition to make the application special is DENIED.

Any inquiry regarding this decision should be directed to Michael P. Woodward, Quality Assurance Specialist, at (571) 272-8373.

/MP Woodward/
Michael P. Woodward, Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

1 0 APR 2007

Bradley Arant Rose & White, LLP
Intellectual Property Department -NWJ
1819 Fifth Avenue North
Birmingham, AL 35203-2104

In re Application of :
PAVKOV, et al. :
Serial No.: 10/572,012 : DECISION ON PETITION
PCT No.: PCT/US04/29632 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 10 September 2004 :
Priority Date: 10 September 2003 :
Atty Docket No.: P71126US01GP :
For: AEROSOL FORMULATIONS FOR DELIVERY OF DIHYDROERGOTAMINE TO THE SYSTEMIC CIRCULATION VIA PULMONARY INHALATION. . . .

This decision is issued in response to applicant's "Petition under Rule 37 CFR 1.47(a)" filed 13 March 2007 to accept the application without the signature of joint inventor, Nahed Mohsen.

BACKGROUND

On 10 September 2004, applicant filed international application PCT/US04/29632 which claimed priority to a previous application filed 10 September 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 March 2006.

On 10 March 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; a preliminary amendment; and an Information Disclosure Statement.

On 13 September 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed.

On 13 March 2007, applicant filed the present petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor Nahed Mohsen.

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).

Regarding item (2) above, petitioner states that Nahed Mohsen has refused to sign 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 provided evidence that a bona fide attempt was made to present a copy of the application papers to the nonsigning inventor, however, the petition and accompanying papers does not provide first hand knowledge that the nonsigning inventor has refused to execute the declaration and the application. The statements made with regards to the efforts to reach Nahed Mohsen constitutes secondhand knowledge, in that the actions to which petitioner is averring to were conducted by Thomas A. Armer. Additionally, a review of the Fed Ex tracking report reveals that the package was released without a

signature and it is unclear if these papers were actually received by Nahed Mohsen. It is noted, 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.

As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers (specification, claims, and drawings) were sent to Nahed Mohsen, 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 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.

The 13 March 2007 submission included an executed declaration. However, this declaration is not in compliance with 37 CFR 1.497. Specifically, the declaration appears to be a compilation; two copies of the same signature page (one executed by each of the two inventors named thereon) has apparently been combined with a single copy of the first page of the declaration. Such compilation is impermissible (see MPEP § 201.03, page 200-7: "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration"). Accordingly, a declaration in compliance with 37 CFR 1.497 is still required.

Further, the declaration submitted 13 March 2007 is not in compliance with 37 CFR 1.497(a)(3) which requires that the oath or declaration identify the inventor and country of citizenship of the inventor. In this case, the declaration does not identify the citizenship of the third inventor, Richard M. Pavkov. Since the declaration does not clearly identify the citizenship of the third inventor, it is considered defective under 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1). A newly executed declaration is required from the third inventor.

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
Fax: (571) 273-0459

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United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

2 9 OCT 2007

Morrison & Foerster, LLP
755 Page Mill Rd
Palo Alto, CA 94304-1018

In re Application of	:	
PAVKOV, et al.	:	
Serial No.: 10/572,012	:	DECISION ON PETITION
PCT No.: PCT/US04/29632	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 10 September 2004	:	
Priority Date: 10 September 2003	:	
Atty Docket No.: P71126US01GP	:	
For: AEROSOL FORMULATIONS FOR DELIVERY OF DIHYDROERGOTAMINE TO THE SYSTEMIC CIRCULATION VIA PULMONARY INHALATION. . .		

This decision is issued in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 10 October 2007. In a decision dated 10 April 2007, applicants' petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor, Nahed Mohsen, was dismissed without prejudice.

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 10 October 2007 with the present petition was executed by the named inventor, the previous non-signing inventor, Nahed Mohsen. The declaration filed 10 October 2007 is acceptable under 37 CFR 1.497. Additionally, a declaration executed by Richard Pavkov, which identifies his citizenship, has been submitted and 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 10 September 2004 under 35 U.S.C. 363 and a date of 10 October 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

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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GREENBERG TRAURIG (LV)
3773 HOWARD HUGHES PARKWAY
Suite 400 North
LAS VEGAS, NV 89169

MAILED

JUL 01 2010

OFFICE OF PETITIONS

In re Application of
Carlos Lozano, et al.
Application No. 10/572,024
Filed: March 13, 2006
Attorney Docket No.: 20411-0010

ON PETITION

This is a decision in response to the petition, filed May 10, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 5, 2009, 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 November 6, 2009. A Notice of Abandonment was mailed on March 9, 2010. On May 10, 2010, 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 amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 3714 for appropriate action by the Examiner in the normal course of business on the amendment received May 10, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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27 JUL 2006

BODNER & O'ROURKE, LLP
425 Broadhollow Road, Suite 108
Melville, NY 11747

In re Application of	:	
GRASNICK	:	
U.S. Application No.: 10/572,025	:	
PCT No.: PCT/EP2004/009482	:	**DECISION**
Int. Filing Date: 25 August 2004	:	
Priority Date: 15 September 2003	:	
Attorney's Docket No.: 1374-2PCT/US	:	
For: METHOD FOR CREATING A	:	
STEREOSCOPIC IMAGE MASTER	:	
FOR IMAGING METHODS WITH	:	
THREE-DIMENSIONAL DEPTH	:	
RENDITION . . .	:	

This decision is in response to the "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 C.F.R. §1.137(b)" filed via facsimile on 26 July 2006 which is hereby **GRANTED** as follows:

The papers submitted 26 July 2006 requested that the Office disregard the petition filed on 25 July 2006 and clarified the small entity status of the application.

The basic national fee, search fee, examination fee, additional claim fees and petition fee for a small entity have been paid. Applicants' statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. All requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration was not included with any of the papers submitted. This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee is required.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

11 APR 2006

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

In re Application of WEBJORN	:	
U.S. Application No.: 10/572,028	:	
PCT Application No.: PCT/SE04/01308	:	
Int. Filing Date: 09 September 2004	:	DECISION
Priority Date Claimed: 10 September 2003	:	
Attorney Docket No.: P/4447-6	:	
For: A CHARGING SYSTEM FOR CHARGING	:	
ACCUMULATOR MEANS. . .	:	

This is in response to applicant's "Petition Under 37 C.F.R. §1.137(b) to Revive an Unintentionally Abandoned International Application Due to Delay in Entering the National Stage in the United States of America" filed 13 March 2006.

BACKGROUND

On 09 September 2004, applicant filed international application PCT/SE04/01308, which claimed priority of earlier United States and Sweden applications filed 10 September 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 17 March 2005. The thirty-month period for paying the basic national fee in the United States expired on 10 March 2006.

International application PCT/SE04/01308 became abandoned as to the United States for failure to timely pay the basic national fee.

On 13 March 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), the petition states, "The undersigned, attorney for the Applicant, has been advised by the Applicant and therefore is informed and believes that the entire delay in entering the national stage in the United States Patent and Trademark Office from the due date for entering the national phase in the United States until the date of this Petition was unintentional by the Applicant." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional on the part of applicant and applicant's representative. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 09 September 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 13 March 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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SUITE 800
ATLANTA, GA 30339

In re Application of	:	
Ruf et al.	:	
Application No.: 10/572,036	:	DECISION
PCT No.: PCT/US04/24279	:	
Int. Filing Date: 28 July 2004	:	ON
Priority Date: 18 September 2003	:	
Attorney Docket No.: 2G0211531	:	PETITION
For: Lancing Device End Cap With	:	
Pressure-Actuated Surface Features	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 26 December 2006.

BACKGROUND

This international application was filed on 28 July 2004, claimed an earliest priority date of 22 September 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 20 March 2006 (since 18 March 2006 was a Saturday). Applicants filed *inter alia* the basic national fee on 15 March 2006.

On 17 November 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 $130.00 surcharge under 37 CFR 1.492(h).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Regarding requirement (1), petitioner paid $130.00 of the $200.00 petition fee on 26 December 2006. The balance of $70.00 is being charged to Deposit Account No. 50-1513, as authorized by the "Response..." filed on 26 December 2006.

Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor Sylvia Ramos be excused, but does not specifically indicate whether she refused to sign the declaration or, alternatively, whether she cannot be found or reached after diligent effort. 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.

...

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 states that

> On May 24, 2006, the undersigned, acting as counsel for the assignee of this application, forwarded a copy of the application to the non-signing joint inventor, Sylvia Ramos, along with an inventors' declaration for signature by Ms. Ramos at her last known address. A copy of the correspondence forwarding these materials, along with tracking information from FedEX regarding delivery of the correspondence is attached as Attachment 1 hereto... In addition to the written communication, our office has performed several online directory assistance searches in an attempt to find a working telephone number and.or new address for Ms. Ramos. We attempted to contact Ms. Ramos by telephone using phone numbers we found from our online directory assistance search, but these calls to Ms. Ramos have not been returned. A copy of our search results is attached...

Petitioner has included a copy of a letter sent to Ms. Ramos, dated 25 May 2006, which states that a copy of this application and a declaration document were sent to her for her review and signature. However, the Federal Express tracking documentation provided does not include a receipt signature, calling into question whether Ms. Ramos actually received the correspondence or indeed whether she still resided at that address. In addition, counsel appears to have found at least one alternative address for Ms. Ramos (107 Samanthas Way, McDonough, GA). This further calls into question whether the Smyrna, GA address was still valid. As such, it would not be appropriate to construe her failure to return the executed declaration as a refusal within the meaning of 37 CFR 1.47(a). Regarding the issue of whether Ms. Ramos could not be found or reached after diligent effort, petitioner states that attempts were made to reach her at found "telephone numbers," but does not specifically identify which numbers were called, the times and dates of such calls, and whether all of the found telephone numbers were attempted. Similarly, petitioner references "several" internet searches, but has provided only copies of results from whitepages.com. The specific search terms used are not provided, nor is it clear whether any other search resources were actually used. Also, the copy of the whitepages.com results ends at the entry for "Ramos, Juan," (result 300 of 300), with a separate sheet listing "Ramos, Sylvia" as result "1 of 1." Again, the specifics of how these results were found have not been made clear. In addition, it is not clear whether petitioner made any additional efforts, such as paper telephone directory searches, skip trace searches, or inquiries to known associates of Ms. Ramos. For all of these reasons, it would not be appropriate to conclude at this time that Ms. Ramos could not be found or reached after diligent effort within the meaning of 37 CFR 1.47(a).

Regarding requirement (3), the petition provides the last known address of the non-signing inventor.

Regarding requirement (4), the declaration filed on 26 December 2006 (which is a copy of a declaration under PCT Rule 4.17(iv), another copy of which was filed on 15 March 2006) is defective because it nominates "HOLZAEPFEL, Jac" in lieu of "HOLZA-EPFEL, Jac" who was named in the published international application. MPEP 605.04(b) states in part that

> Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.

Since the discrepancy noted above represents more than a mere typographic error or phonetic misspelling of applicant's name, a petition and fee under 37 CFR 1.182 (or a newly executed oath or declaration nominating the same inventive entity as the published international application) is required. *See also* MPEP MPEP § 201.03(b).

In addition, it is not clear that each of the signing inventors executed a complete declaration document. Instead, the declaration appears to have been compiled using parts of multiple declaration documents; specifically, the declaration includes two instances of "Sheet No. 3," each of which was executed by a different inventor. Counsel's attention is drawn to MPEP 201.03, which explains in part that

> While each inventor need not execute the same declaration, each oath or declaration executed must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

The declaration is also defective in that it does not provide Ms. Ramos' citizenship. Thus, it would not be appropriate to conclude on the basis of the present record that the declaration satisfies requirement (4).

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**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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02 FC:1464 -130.00 OP

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SUITE 800
ATLANTA, GA 30339

In re Application of	:	
Ruf et al.	:	
Application No.: 10/572,036	:	DECISION
PCT No.: PCT/US04/24279	:	
Int. Filing Date: 28 July 2004	:	ON
Priority Date: 18 September 2003	:	
Attorney Docket No.: 2G0211531	:	PETITION
For: Lancing Device End Cap With	:	
Pressure-Actuated Surface Features	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 24 July 2007.

DISCUSSION

In a Decision mailed on 28 February 2007, the petition under 37 CFR 1.47(a) filed on 26 December 2006 was dismissed, without prejudice, because

> Regarding requirement (2), ...
>
> Petitioner has included a copy of a letter sent to Ms. Ramos, dated 25 May 2006, which states that a copy of this application and a declaration document were sent to her for her review and signature. However, the Federal Express tracking documentation provided does not include a receipt signature, calling into question whether Ms. Ramos actually received the correspondence or indeed whether she still resided at that address. In addition, counsel appears to have found at least one alternative address for Ms. Ramos (107 Samanthas Way, McDonough, GA). This further calls into question whether the Smyrna, GA address was still valid. As such, it would not be appropriate to construe her failure to return the executed declaration as a refusal within the meaning of 37 CFR 1.47(a). Regarding the issue of whether Ms. Ramos could not be found or reached after diligent effort, petitioner states that attempts were made to reach her at found "telephone numbers," but does not specifically identify which numbers were called, the times and dates of such calls, and whether all of the found telephone numbers were attempted. Similarly, petitioner references "several" internet searches, but has provided only copies of results from whitepages.com. The specific search terms used are not provided, nor is it clear whether any other search resources were actually used. Also, the copy of the whitepages.com results ends at the entry for "Ramos, Juan," (result 300 of 300), with a separate sheet listing "Ramos, Sylvia" as result "1 of 1." Again, the specifics of how these results were found have not been made clear. In addition, it is not clear whether petitioner made any additional efforts, such as paper telephone directory searches, skip trace searches, or inquiries to known associates of Ms. Ramos. For all of these reasons, it would

not be appropriate to conclude at this time that Ms. Ramos could not be found or reached after diligent effort within the meaning of 37 CFR 1.47(a).

The declaration was also found to be defective.

In response, petitioner now indicates that both Sylvia Ramos and Jac Holzaepfel are now unavailable, and indicates last-known addresses for each. Petitioner provides an "affidavit of Roseanne Hall..." and accompanying evidence of efforts undertaken to obtain the inventors' signatures on the declaration document. Ms. Hall introduces evidence that correspondence was sent to Ms. Ramos and Mr. Holzaepfel on 28 March 2007, but returned as "undeliverable." She also introduces copies of whitepages.com search results for Ms. Ramos and Mr. Holzaepfel, and indicates that she has been unsuccessful in her attempts to reach either inventor by telephone based on these search results. However, Ms. Hall does not indicate the specific date(s) and time(s) of calls placed to the particular numbers called, nor does she recount any efforts undertaken to contact either inventor BY MAIL at any of the alternative addresses identified by the internet searches. It would be inappropriate to construe a failure to answer a telephone call (at unspecified time and date) as sufficient evidence that either inventor is unavailable within the meaning of 37 CFR 1.47(b).

Regarding requirement (4), petitioner indicates that "Holzaepfel" is the correct spelling of the inventor's surname. Nonetheless, this name differs from the name appearing on the published international application. In order for the declaration bearing this name to be accepted, a proper petition under 37 CFR 1.182 is required, as described in the previous Decision. As such, it would not be appropriate to consider requirement (4) as having been satisfied at this time.

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**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

United States Patent and Trademark Office

12 MAY 2008

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2018 POWERS FERRY ROAD
SUITE 800
ATLANTA, GA 30339

In re Application of	:	
Ruf et al.	:	
Application No.: 10/572,036	:	DECISION
PCT No.: PCT/US04/24279	:	
Int. Filing Date: 28 July 2004	:	ON
Priority Date: 18 September 2003	:	
Attorney Docket No.: 2G0211531	:	PETITION
For: Lancing Device End Cap With	:	
Pressure-Actuated Surface Features	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 17 March 2008.

DISCUSSION

As a preliminary matter, it is noted that the previous Decision, mailed on 17 September 2007, set a two-month period for response, extendable under 37 CFR 1.136(a). The instant petition, accompanied by the petition fee for a 4-month extension of time under 37 CFR 1.136(a), was a timely response to that Decision. Therefore, the Notice of Abandonment mailed on 14 January 2008 was issued in error, and it is hereby **VACATED**. The holding of abandonment is **WITHDRAWN**.

The Decision mailed on 17 September 2007 dismissed the petition under 37 CFR 1.47(a) filed on 24 July 2007, without prejudice, because petitioner had not adequately shown inventors Ramos and Holzaepfel to be "unavailable," and because the declaration included an unexplained discrepancy in inventor Holzaepfel's name.

Regarding requirement (2), petitioner has presented additional evidence (including statements by Atty. Kandcer in the petition itself, as well as in the affidavit of Roseanne Hall) further explaining the diligent efforts undertaken to locate Sylvia Ramos so as to obtain her execution of the application. In view of the totality of the evidence now of record, it would now be appropriate to conclude that Sylvia Ramos could not be found or reached after diligent effort, within the meaning of 37 CFR 1.47(a). Regarding Jac Holzaepfel, he has signed the declaration accompanying the petition. Therefore, *requirement (2) has now been satisfied.*

Regarding requirement (4), petitioner has provided a satisfactory explanation for the apparent discrepancy in Jac Holzaepfel's name. The instant petition is accompanied by a new declaration document signed by all of the joint inventors, except Sylvia Ramos. *This declaration is satisfactory for purposes of compliance with requirement (4).*

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 her last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the National Stage Processing Branch for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **17 March 2008** (the date a declaration acceptable for purposes of 37 CFR 1.497(a) and (b) was filed).

/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

12 MAY 2008

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Sylvia Ramos
1114 Vinings Parkway
Smyrna, GA 30080

In re Application of
Ruf et al.
Application No.: 10/572,036
PCT No.: PCT/US04/24279
Int. Filing Date: 28 July 2004
Priority Date: 18 September 2003
Attorney Docket No.: 2G0211531
For: Lancing Device End Cap With:
Pressure-Actuated Surface Features

Dear Ms. Ramos::

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3283. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

GARDNER GROFF SANTOS & GREENWALD, P.C.
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA, GA 30339

United States Patent and Trademark Office

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P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of a joint inventor. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Sylvia RAMOS) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/US2004/024279 and was filed on July 28, 2004 in the names of Christopher RUF, Stephen FLYNN, Richard LEVAUGHN, Gwenn KENNEDY, Michael LIPOMA, Juan SALLERAS, Jac HOLZAEPFEL and Sylvia RAMOS for the invention entitled LANCING DEVICE END CAP WITH PRESSURE-ACTUATED SURFACE FEATURES. The national stage application number is 10/572,036 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of March 17, 2008.

08 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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HERSHKOVITZ & ASSOCIATES
1725 I STREET NW, SUITE 300
WASHINGTON DC 20006

In re Application of	:	
YUNG, Tin-Woo et al.	:	
Application No.: 10/572,050	:	DECISION
PCT No.: PCT/US04/16686	:	
Int. Filing Date: 27 May 2004	:	ON PETITION UNDER
Priority Date: 09 June 2003	:	
Docket No.: 2003UR024A	:	37 CFR 1.137(b)
For: METHOD AND APPARATUS FOR FLUID	:	
FLOW TESTING	:	

Applicants' "Petition To the Commissioner Under 37 C.F.R. §1.137(b) For Revival of the Application to Permit Entry Into the U.S. National Phase," filed in the above-captioned application on 15 March 2006 is **GRANTED**.

Applicants indicate that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted. The feel for submitting the search fee, examination fee or oath or declaration later than 30 months from the priority date will be charged to deposit account no. 50-2929, 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